

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 21,013, 28 ta' Frar, 2023

Taqsim A

MALTA

ATT Nru IV tal-2023

ATT maħruġ b'liġi mill-Parlament ta' Malta.

ATT sabiex jemenda l-Kodiċi Kriminali, Kap. 9 u liġijiet relatati.

ACT No. IV of 2023

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Criminal Code, Cap. 9 and related laws.

Nagħti l-kunsens tiegħi.

(L.S.)

FRANK BEZZINA
Aġent President

28 ta' Frar, 2023

ATT Nru IV tal-2023

ATT sabiex jemenda l-Kodiċi Kriminali, Kap. 9 u liġijiet relatati.

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. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2023 li jemenda l-Kodiċi Kriminali u Liġijiet Relatati. Titolu fil-qosor u bidu fis-seħh.
- (2) Dan l-Att għandu jidhol fis-seħh fit-28 ta' Frar 2023.

TAQSIMA I
Emendi tal-Kodiċi Kriminali

2. Din it-Taqsima temenda l-Kodiċi Kriminali u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi". Emendi għall-Kodiċi Kriminali. Kap. 9.
3. Is-subartikolu (3) tal-artikolu 370 tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 370 tal-Kodiċi.

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(a) fil-paragrafu (b) tiegħu, il-kliem "Meta l-atti jintbagħtu lura" għandhom jiġu sostitwiti bil-kliem "Fuq talba tal-Avukat Ġenerali"; u

(b) il-paragrafu (d) tiegħu għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"(d) Jekk l-akkużat joġġezzjona illi l-każ jiġi ttrattat bi proċedura sommarja, il-qorti għandha tordna li l-Avukat Ġenerali għandu jingħata aċċess permezz ta' mezzi elettronici għal kopja tal-atti tal-każ, fiż-żmien stabbilit fl-artikolu 401(3), sabiex il-każ ikun iġġudikat skont il-liġi. F'dan il-każ, iż-żmien imsemmi fl-artikolu 432 għall-preżentata tal-att tal-akkuża għandu jibda jgħodd minn dakinhar li l-Avukat Ġenerali jingħata aċċess permezz ta' mezzi elettronici għal kopja tal-atti tal-każ."

Emenda tal-artikolu 401 tal-Kodiċi.

4. L-artikolu 401 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subartikolu (3A) tiegħu għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"Trasmissjoni elettronika tad-dokumenti tal-proċeduri lill-Avukat Ġenerali.

(3A) Meta l-qorti tqiegħed lill-imputat taħt att ta' akkuża quddiem il-Qorti Kriminali, il-qorti għandha, minbarra li tagħti l-ordni imsemmija fis-subartikolu (3), tagġorna l-każ għal data oħra, li tkun data mhux iktar kmieni minn xahar (1), iżda mhux iktar tard minn sitt (6) gimgħat mid-data tal-aġġornament. Il-qorti għandha wkoll tagġorna l-każ kif ingħad għal data li tkun tiġi wara li l-qorti tkun irċeviet in-nota ta' rinviju skont is-subartikolu (2) tal-artikolu 405 mingħand l-Avukat Ġenerali iżda li tkun tiġi qabel id-data li fiha terġa' tagħti aċċess permezz ta' mezzi elettronici għall-atti tal-kompilazzjoni flimkien mal-eżebiti kollha u dokumenti fil-każ lill-Avukat Ġenerali skont xi dispożizzjoni ta' dan il-Kodiċi."; u

(b) minnufih wara s-subartikolu (4) tiegħu għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"(5) Matul it-terminu stipulat fis-subartikolu (3A), il-Qorti Kriminali tkun kompetenti sabiex tiddeċiedi dwar talbiet ipprezentati matul l-imsemmi terminu."

Emenda tal-artikolu 402A tal-Kodiċi.

5. Fl-artikolu 402A tal-Kodiċi, il-kliem "bħala qorti ta' inkjesta kriminali" għandhom jiġu sostitwiti bil-kliem "bħala Qorti Istrutturja".

6. L-artikolu 405 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 405 tal-Kodiċi.

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"(1) Il-qorti għandha, wara li tordna li l-Avukat Ġenerali jingħata aċċess permezz tal-mezzi elettronici għall-atti tal-kumpilazzjoni flimkien mal-esebiti kollha tal-każ, wara li tagħti l-ordni sabiex l-imputat jitqiegħed taħt att ta' akkuża, u qabel ma jiġi ppreżentat l-att ta' akkuża, fuq talba bil-miktub tal-Avukat Ġenerali, tagħmel mistoqsijiet ulterjuri lil kwalunkwe xhieda li jkunu diġà nstemgħu jew tisma' xi xhieda godda."; u

(b) fis-subartikolu (5) tiegħu, il-kliem "li, mhux aktar tard mill-jum ta' wara, għandu jibgħat lill-qorti l-atti tal-kompilazzjoni" għandhom jiġu mħassra.

7. Is-subartikolu (2) tal-artikolu 419 tal-Kodiċi għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

Emenda tal-artikolu 419 tal-Kodiċi.

"(2) Jekk l-appell isir mill-Avukat Ġenerali, ir-rikors għandu, taħt piena ta' nullità, ikun iffirmit minnu u għandu jiġi preżentat fil-qorti superjuri."

8. Is-subartikolu (1) tal-artikolu 431 tal-Kodiċi għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

Emenda tal-artikolu 431 tal-Kodiċi.

"(1) Kemm-il darba mhux provdut xort'oħra f'dan il-Kodiċi jew f'xi liġi oħra, il-funzjonijiet tal-Avukat Ġenerali għandhom jibdew minn dakinhar li jingħata aċċess permezz ta' mezzi elettronici għall-atti tal-kumpilazzjoni magħmula mill-Qorti tal-Maġistrati."

9. L-artikolu 432 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 432 tal-Kodiċi.

(a) fis-subartikolu (1) tiegħu, il-kliem "jirċievi l-atti" għandhom jiġu sostitwiti bil-kliem "jingħata aċċess permezz tal-mezzi elettronici għall-atti";

(b) fis-subartikolu (2) tiegħu, il-kliem "jista' jibgħat l-atti lura lill-qorti li minn għandha jkun irċevihom, flimkien ma'" għandhom jiġu sostitwiti bil-kliem "jista' jippreżenta"; u

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"(3) Il-qorti għandha, fi żmien hamest (5) ijiem tax-

xogħol illi għandhom jibdew jiddekorru minn dakinhar li tirċievi t-talba pprezentata mill-Avukat Ġenerali bħalma jingħad hawn fuq, liema żmien fuq talba bil-miktub tal-qorti u għal raġuni tajba, il-President ta' Malta jista' jggedded għal hamest (5) ijiem oħra tax-xogħol, tagħlaq il-kompilazzjoni ġdida jew tikkoreġi l-atti, u għandha tagħti aċċess permezz ta' mezzi elettronici għall-atti lill-Avukat Ġenerali; u f'dan il-każ, iż-żmien għall-prezentata tal-att tal-akkuża għandu jibda jiddekorri minn dakinhar li l-Avukat Ġenerali jingħata aċċess permezz ta' mezzi elettronici tal-atti l-godda jew l-atti kif ikunu ġew ikkoreġuti."

Emenda tal-artikolu 433 tal-Kodiċi.

10. L-artikolu 433 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (3) tiegħu, il-kliem "minn dak in-nhar li jkunu ġew lilu mibgħuta l-atti tal-kompilazzjoni" għandhom jiġu sostitwiti bil-kliem "minn dakinhar illi jingħata aċċess bil-mezzi elettronici għall-atti tal-kompilazzjoni"; u

(b) fis-subartikolu (5) tiegħu, il-kliem "iżda jibgħat lura l-atti lil din il-qorti, u din" għandhom jiġu sostitwiti bil-kliem "iżda jagħmel talba lill-Qorti tal-Maġistrati, u dik".

Emenda tal-artikolu 435 tal-Kodiċi.

11. Fis-subartikolu (2) tal-artikolu 435 tal-Kodiċi, il-kliem "hu għandu jibgħat lura l-atti kollha lill-Qorti tal-Maġistrati, u din" għandhom jiġu sostitwiti bil-kliem "l-Avukat Ġenerali għandu jagħmel talba lill-Qorti tal-Maġistrati, u dik".

Emenda tal-artikolu 590 tal-Kodiċi.

12. Fis-subartikolu (2) tal-artikolu 590 tal-Kodiċi, il-kliem "l-atti tal-kompilazzjoni flimkien ma'" għandhom jiġu mħassra.

Żieda tal-artikolu 699A ġdid fil-Kodiċi.

13. Minnufih wara l-artikolu 699 tal-Kodiċi għandu jiġi miżjud dan l-artikolu ġdid li ġej:

"It-trasferiment u reċezzjoni tal-atti b'mezzi elettronici ma jgħibx difett fil-proċedura.

699A. Kull referenza f'dan il-Kodiċi għar-reċezzjoni tal-atti ta' kawża minn qorti jew mill-Avukat Ġenerali jew għat-trasferiment tal-atti ta' kawża minn qorti lil qorti oħra jew lill-Avukat Ġenerali għandha titqies li tinkludi referenza għall-għoti tal-aċċess għal dawk l-atti b'mezzi elettronici u għat-trasferiment jew reċezzjoni ta' kopja skenjata tal-atti b'mezzi elettronici u ma tqum ebda nullità jew difett ieħor fil-proċedura segwita jekk it-trasmissjoni jew reċezzjoni tal-atti ssir b'xi wieħed (1) mill-mezzi elettronici msemmija f'dan l-artikolu u mhux bi trasferiment fiżiku."

14. (1) Id-dispożizzjonijiet ta' din it-Taqsima ta' dan l-Att għandhom japplikaw biss għal proċeduri kriminali li jinbdew wara d-data tad-dhul fis-seħħ ta' dan l-Att, u għal proċeduri kriminali li nbdeu qabel id-dhul fis-seħħ ta' dan l-Att għandhom jibqgħu japplikaw id-dispożizzjonijiet li kienu fis-seħħ qabel id-dhul fis-seħħ tal-Att tal-2022 li jemenda l-Kodiċi Kriminali (Emenda Nru 2) u ta' dan l-Att.

Dispożizzjoni transitorja u ta' riżerva.

Att Nru V tal-2022.

(2) Dan l-Att bl-ebda mod ma għandu jaffettwa l-validità ta' xi ordni, deċiżjoni, awtorizzazzjoni, dokument, proċedura jew miżura oħra magħmula qabel id-dhul fis-seħħ ta' dan l-Att u tali ordni, deċiżjoni, awtorizzazzjoni, dokument, proċedura jew miżura oħra għandhom jibqgħu validi wara d-dhul fis-seħħ ta' dan l-Att.

TAQSIMA II

Emendi għall-Att tal-2022 li jemenda l-Kodiċi Kriminali (Emenda Nru 2)

15. Din it-Taqsima temenda l-Att tal-2022 li jemenda l-Kodiċi Kriminali (Emenda Nru 2) u għandha tinqara u tinftiehem haġa waħda mal-Att tal-2022 li jemenda l-Kodiċi Kriminali (Emenda Nru 2), hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att".

Emendi għall-Att tal-2022 li jemenda l-Kodiċi Kriminali (Emenda Nru 2).
Att Nru V tal-2022.

16. L-artikolu 4 tal-Att għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 4 tal-Att.

"4. Is-subartikolu (3) tal-artikolu 401 tal-Kodiċi għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"(3) Fil-każ il-wieħed u l-ieħor, il-qorti għandha tordna li l-Avukat Ġenerali, fi żmien tlett (3) ijiem tax-xogħol jingħata aċċess bil-mezzi elettronici għal kopja skenjata tal-atti tal-kompilazzjoni flimkien mal-esebiti kollha relatati mal-każ.".

17. Fil-verżjoni bl-Ingliż biss, fil-paragrafu (ċ) tal-artikolu 6 tal-Att, li jissostitwixxi s-subartikolu (7) tal-artikolu 405 tal-Kodiċi, il-kelma "charged" għandha tiġi sostitwita bil-kliem "person charged".

Emenda tal-artikolu 6 tal-Att.

18. (1) L-artikolu 4 tal-Att, kif emendat bl-artikolu 16 ta' din it-Taqsima, għandu japplika biss għal proċeduri kriminali li jinbdew wara d-data tad-dhul fis-seħħ ta' dan l-Att.

Dispożizzjoni transitorja u ta' riżerva.

(2) Dan l-Att bl-ebda mod ma għandu jaffettwa l-validità ta' xi ordni, deċiżjoni, awtorizzazzjoni, dokument, proċedura jew miżura oħra magħmula qabel id-dhul fis-seħħ ta' dan l-Att u tali ordni, deċiżjoni, awtorizzazzjoni, dokument, proċedura jew miżura oħra għandhom jibqgħu validi wara d-dhul fis-seħħ ta' dan l-Att.

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 91 tat-22 ta' Frar,
2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

FRANK BEZZINA
Acting President

28th February, 2023

ACT No. IV of 2023

AN ACT to amend the Criminal Code, Cap. 9 and related laws.

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:-

1. (1) The short title of this Act is the Criminal Code and Related Laws (Amendment) Act, 2023. Short title and commencement.

(2) This Act shall come into force on 28th February 2023.

PART I

Amendments to the Criminal Code

2. This Part amends the Criminal Code and it shall be read and construed as one with the Criminal Code, hereinafter in this Part referred to as "the Code". Amendments to the Criminal Code. Cap. 9.

3. Sub-article (3) of article 370 of the Code shall be amended as follows: Amendment of article 370 of the Code.

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(a) in paragraph (b) thereof, the words "On the record being returned" shall be substituted by the words "On the demand of the Attorney General"; and

(b) paragraph (d) thereof shall be substituted by the following new paragraph:

"(d) If the accused objects to the case being dealt with summarily, the court shall order that the record of the case be transmitted to the Attorney General, by electronic means, within the term determined in article 401(3), for the case to be dealt with according to law. In such case the term referred to in article 432 for the filing of the indictment shall run from the day on which the Attorney General shall be granted access by electronic means to the record of the case."

Amendment of article 401 of the Code.

4. Article 401 of the Code shall be amended as follows:

(a) sub-article (3A) thereof shall be substituted by the following new sub-article:

"Electronic transmission of documents of the proceedings to the Attorney General.

(3A) Where the court has committed the accused for trial by the Criminal Court, the court shall, besides giving the order mentioned in sub-article (3), adjourn the case to another date, being a date not earlier than one (1) month but not later than six (6) weeks from the date of the adjournment. The court shall also adjourn the case as aforesaid to a date falling after the court shall have received the note of referral according to sub-article (2) of article 405 from the Attorney General and falling before the date when it shall grant access again by electronic means to the record of the inquiry together with all the exhibits and documents in the case to the Attorney General in terms of any provision of this Code."; and

(b) immediately after sub-article (4) thereof there shall be added the following new sub-article:

"(5) During the term stipulated in sub-article (3A), the Criminal Court shall be competent to decide on demands that are filed during the said term."

Amendment of article 402A of the Code.

5. In the Maltese version only, in article 402A of the Code the words "bħala qorti ta' inkjesta kriminali" shall be substituted by the words "bħala Qorti Istrutturja".

6. Article 405 of the Code shall be amended as follows:

Amendment of
article 405 of
the Code.

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) The court shall, after ordering that the Attorney General be granted access by electronic means to the record of the inquiry and to all the exhibits in the case, after ordering the committal of the accused for trial, and before the filing of the bill of indictment, upon the demand in writing of the Attorney General, further examine any witness previously heard or examine any new witness"; and

(b) in sub-article (5) thereof, the words "who, not later than the day following, shall forward to the court the record of inquiry" shall be deleted.

7. Sub-article (2) of article 419 of the Code shall be substituted by the following new sub-article:

Amendment of
article 419 of
the Code.

"(2) If the appeal is made by the Attorney General, the application shall, under pain of nullity, be signed by him and shall be filed in the the superior court."

8. Sub-article (1) of article 431 of the Code shall be substituted by the following new sub-article:

Amendment of
article 431 of
the Code.

"(1) Unless otherwise provided in this Code or in any other law, the functions of the Attorney General commence from the day on which the record of the inquiry made by the Court of Magistrates is transmitted by the court to the Attorney General by electronic means."

9. Article 432 of the Code shall be amended as follows:

Amendment of
article 432 of
the Code.

(a) in sub-article (1) thereof, the words "of the receipt of" shall be substituted by the words "the Attorney General is granted access by electronic means to";

(b) in sub-article (2) thereof, the words "may send back the record to the court from which it was received, together with" shall be substituted by the words "may file"; and

(c) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3) The court shall, within the term of five (5) working days which shall run from the day on which the demand is filed by the Attorney General, which term may,

upon a demand in writing by the court and on a just cause being shown, may be extended by the President of Malta to a further period of five (5) working days, conclude the fresh inquiry or rectify the record, and shall grant the Attorney General access by electronic means to the said record; and in such case the term for filing the indictment shall commence to run from the day on which the Attorney General shall have been given access to the record of the fresh inquiry or the record as rectified."

Amendment of article 433 of the Code.

10. Article 433 of the Code shall be amended as follows:

(a) in sub-article (3) thereof, the words "from the day on which the record of the inquiry shall have been transmitted to him" shall be substituted by the words "from the day on which he is granted access by electronic means to the record of the inquiry"; and

(b) in sub-article (5) thereof, the words "send back the record of inquiry to that court" shall be substituted by the words "file a demand to the Court of Magistrates".

Amendment of article 435 of the Code.

11. In sub-article (2) of article 435 of the Code, the words "he shall send back the whole record to the Court of Magistrates" shall be substituted by the words "the Attorney General shall file a demand to the Court of Magistrates".

Amendment of article 590 of the Code.

12. In sub-article (2) of article 590 of the Code, the words "the record of the inquiry together with" shall be deleted.

Addition of new article 699A to the Code.

13. Immediately after article 699 of the Code there shall be added the following new article:

"Transfer and receipt of record by electronic means not to give rise to a procedural defect.

699A. Any reference in this Code to the receipt of the record of a case by a court or by the Attorney General or to the transfer of the record of a case from a court to another court or to the Attorney General shall be deemed to include a reference to the granting of access to the said record by electronic means and to the transfer or receipt of a scanned copy of the record by electronic means and no nullity or other defect in the procedure followed shall arise when the transfer or the receipt of the record is made by one (1) of the electronic means referred to in this article instead of by physical transfer."

14. (1) The provisions of this Part of this Act shall only apply to criminal proceedings which commence after the date of coming into force of this Act, and for criminal proceedings that commenced before the entry into force of this Act, the provisions that were in force prior to the entry into force of the Criminal Code (Amendment No. 2) Act, 2022 and of this Act, shall continue to apply.

Transitory provision and saving.

Act No. V of 2022.

(2) Nothing in this Act shall affect the validity of any order, decision, authorisation, document, procedure or other measure made prior to the coming into force of this Act, and such order, decision, authorisation, document, procedure or other measure shall continue to be valid after the coming into force of this Act.

PART II

Amendments to the Criminal Code (Amendment No. 2) Act, 2022

15. This Part amends the Criminal Code (Amendment No. 2) Act, 2022 and it shall be read and construed as one with the Criminal Code (Amendment No. 2) Act, 2022, hereinafter in this Part referred to as "the Act".

Amendments to the Criminal Code (Amendment No. 2) Act, 2022. Act No. V of 2022.

16. Article 4 of the Act shall be substituted by the following:

Substitution of article 4 of the Act.

"4. Sub-article (3) of article 401 of the Code shall be substituted by the following new sub-article:

"(3) In either case, the court shall order that the Attorney General be granted access by electronic means to a scanned copy of the record of the inquiry, together with all the exhibits related to the case, within three (3) working days.".

17. In paragraph (c) of article 6 of the Act, that substitutes sub-article (7) of article 405 of the Code, the word "charged" shall be substituted by the words "person charged".

Amendment of article 6 of the Act.

18. (1) Article 4 of the Act, as amended by article 16 of this Part, shall only apply to criminal proceedings which commence after the date of coming into force of this Act.

Transitory provision and saving.

(2) Nothing in this Act shall affect the validity of any order, decision, authorisation, document, procedure or other measure made prior to the coming into force of this Act, and such order, decision, authorisation, document, procedure or other measure shall continue to be valid after the coming into force of this Act.

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Passed by the House of Representatives at Sitting No. 91 of the
22nd February, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

