

**MALTA**

**ATT Nru. XXIX ta' l-1989**

**ACT No. XXIX of 1989**

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

AN ACT enacted by the Parliament of Malta.

**ATT biex jemenda l-Kodiċi Kriminali (Kap. 9).**

**AN ACT to amend the Criminal Code (Cap. 9).**

Naghti l-kunsens tiegħi.

(L.S.)

ĊENSU TABONE  
President

16 ta' Awissu, 1989

**ATT Nru. XXIX ta' l-1989**

*ATT biex 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 ta' l-istess, hareġ b'liġi dan li ġej:—

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1989 li jemenda l-Kodiċi Kriminali, u għandu jinqara u jiftiehem haġa waħda mal-Kodiċi Kriminali hawn aktar 'il quddiem imsejjah "il-liġi prinċipali".

Titolu  
fil-qosor.

(2) Id-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 2 ta' dan l-Att għandhom jidhlu fis-sehħ f'dik id-data li l-Ministru responsabbli għall-gustizzja jista' b'avviż fil-Gazzetta jistabbilixxi.

2. (1) Minflok is-subartikolu (1) ta' l-artikolu 575 tal-liġi prinċipali għandu jidhol dan li ġej:

Emenda ta'  
l-artikolu  
575 tal-liġi  
prinċipali.

“(1) Bla hsara tad-dispożizzjonijiet tas-subartikolu (2) ta' l-aħħar artikolu qabel dan, fil-każ ta' —

(i) imputat ta' delitt kontra s-sigurtà tal-Gvern, jew

(ii) imputat ta' delitt suġġett għall-piena ta' prigunerija għal ghomru,

il-qorti tista' tagħti heġsien mill-arrest, biss jekk, wara li tikkunsidra iċ-ċirkostanzi kollha tal-każ, in-natura u l-gravità tar-reat, il-karattru, anteedenti, assoċjazzjonijiet u rabtiet fil-komunità ta' l-imputat, kif ukoll kull haġa oħra li tkun tidher li hi rilevanti, tkun sodisfatta illi ma hemmx perikolu illi l-imputat jekk jiġi meħlus mill-arrest

(a) jonqos li jidher għall-ordni ta' l-awtorità msemmija fl-obbligazzjoni tal-garanzija; jew

(b) jinheba jew jitlaq minn Malta; jew

(ċ) ma josservax xi kondizzjoni li l-qorti jkun jidhrilha xieraq li timponi fl-obbligazzjoni tal-garanzija; jew

(d) jinterferixxi jew jipprova jinterferixxi max-xhieda jew b'xi mod iehor jintralċja jew jipprova jintralċja l-kors tal-gustizzja fir-rigward tieghu jew xi persuna oħra; jew

(e) jikkommetti xi reat iehor.”.

(2) Minnufih wara s-subartikolu (4) ta' l-artikolu 575 tal-liġi prinċipali għandhom jiżiedu s-subartikoli li ġejja:

“(5) Meta f'każ ta' persuna imputata ta' delitt li dwaru l-Qorti tal-Pulizija Ġudizzjarja tkun għaddiet għal kumpilazzjoni li tinhtieg l-Avukat Ġenerali ma jkunx jew

(a) ippreżenta l-att ta' l-akkuża, jew

(b) bagħat lill-imputat biex jiġi ġudikat mill-Qorti tal-Pulizija Ġudizzjarja kif provdut fil-paragrafu (a) tas-subartikolu (3) ta' l-artikolu 370 jew fis-subartikolu (5) ta' l-artikolu 433 ta' dan il-Kodiċi jew f'xi provvediment simili f'xi liġi oħra

fiż-żminijiet speċifikati fis-subartikolu (6) ta' dan l-artikolu, li jibdwew jghoddu minn dak inhar li fih il-persuna imputata tingieb quddiem l-imsemmija qorti, dik il-persuna għandha tingħata l-helsien mill-arrest taht garanzija.

(6)(a) Iż-żminijiet li għalihom jirreferi s-subartikolu li jiġi qabel dan huma:

(i) tnax-il xahar f'każ ta' delitt suġġett għall-piena ta' prigunerija ta' anqas minn erba' snin;

(ii) sittax-il xahar f'każ ta' delitt suġġett għall-piena ta' prigunerija ta' erba' snin jew aktar iżda anqas minn disa' snin; u

(iii) ghoxrin xahar f'każ ta' delitt suġġett għall-piena ta' prigunerija ta' disa' snin jew aktar.

(b) Iż-żminijiet msemmija fil-paragrafu (a) ta' dan is-subartikolu jitwaqqfu għal dak l-istess żmien li matulu iż-żminijiet msemmija fl-artikoli 401 u 407 u fis-subartikolu (3) ta' l-artikolu 432 ta' dan il-Kodiċi ikunu mwaqqfa għal xi raġuni msemmija fis-subartikoli (1) u (2) ta' l-artikolu 402 ta' dan il-Kodiċi, kif ukoll għal dak iż-żmien li fih il-Qorti ma tkunx tista' tkompli bil-kumpilazzjoni hlief wara d-deċiżjoni fuq xi kwistjoni quddiem qorti oħra.

(ċ) Iż-żminijiet imsemmija fil-paragrafu (a) ta' dan is-subartikolu jitwaqqfu wkoll għal dak l-istess żmien li matulu l-atti tal-kumpilazzjoni jkunu għand il-Qorti tal-Pulizija Ġudizzjarja biex jinstemghu xhieda kif provdut fis-subartikolu (5) ta' l-artikolu 405 ta' dan il-Kodiċi.

(7) Il-helsien mill-arrest taht garanzija għandu jingħata wkoll dejjem lil persuna imputata ta' reat kemm-il darba fiż-żminijiet speċifikati fis-subartikolu (9) ta' dan l-artikolu, li jibdwew jghoddu kif provdut fis-subartikolu (8) ta' dan l-artikolu, ma' jkunx hemm sentenza finali li tillibera, issib hati jew tikkundanna lill-persuna hekk imputata.

(8) Iż-żminijiet speċifikati fis-subartikolu (9) ta' dan l-artikolu jibdwew jghoddu:

(a) meta ma tkunx saret kumpilazzjoni, minn dak inhar li fih il-persuna imputata tingieb quddiem il-Qorti tal-Pulizija Ġudizzjarja;

(b) meta tkun saret kumpilazzjoni, minn dak inhar li fih l-Avukat Ġenerali jibgħat lill-imputat biex jiġi ġudikat mill-Qorti tal-Pulizija Ġudizzjarja kif provdut fil-paragrafu (a) tas-subartikolu (3) ta' l-artikolu 370 jew fis-subartikolu (5) ta' l-artikolu 433 ta' dan il-Kodiċi jew f'xi provvediment simili f'xi liġi oħra, jew minn dak inhar li jkun ġie ippreżentat l-att ta' l-akkuża:

Iżda meta l-imputat isib oġġezzjoni illi l-każ jiġi ittrattat bi proċedura sommarja kif provdut fil-paragrafu (d) tas-subartikolu (3) ta' l-artikolu 370, iż-żmien jibda jghodd minn dak inhar li fih ikun ġie ippreżentat l-att ta' l-akkuża.

(9)(a) Iż-żminijiet li għalihom jirreferu s-subartikoli (7) u (8) ta' dan l-artikolu huma:

(i) erba' xhur f'każ ta' kontravvenzjoni jew ta' delitt suġġett għall-pieni tal-kontravvenzjonijiet jew għall-piena ta' prigunerija għal żmien mhux aktar minn sitt xhur;

(ii) tmien xhur f'każ ta' delitt suġġett għall-piena ta' prigunerija għal-żmien iżjed minn sitt xhur iżda mhux iżjed minn erba' snin;

(iii) tnax-il xahar f'każ ta' delitt suġġett għall-piena ta' prigunerija għal żmien iżjed minn erba' snin iżda mhux iżjed minn għaxar snin;

(iv) erbgħa u għoxrin xahar f'każ ta' delitt suġġett għall-piena ta' prigunerija għal żmien iżjed minn għaxar snin iżda mhux iżjed minn hmistax-il sena;

(v) tletin xahar f'każ ta' delitt sugġett għall-piena ta' prigunerija iżjed minn hmistax-il sena.

(b) Iż-żminijiet imsemmija fil-paragrafu (a) ta' dan is-subartikolu jitwaqqfu —

(i) għal dak iż-żmien li fih il-qorti ma tkunx tista' tkompli tisma' l-kawża hliet wara d-deċiżjoni fuq xi kwistjoni quddiem qorti ohra jew għal xi raġuni msemmija fis-subartikoli (1) u (2) ta' l-artikolu 402 ta' dan il-Kodiċi;

(ii) għal dak l-istess żmien li matulu l-atti tal-kumpilazzjoni jkunu għand il-Qorti tal-Pulizija Ġudizzjarja biex jinstemgħu xhieda mitluba mill-imputat kif provdut fl-artikolu 406 ta' dan il-Kodiċi;

(iii) għal dak iż-żmien li l-każ ikun quddiem il-Qorti ta' l-Appell Kriminali fuq appell ta' l-imputat minn digriet interlokutorju jew fuq appell ta' l-imputat jew ta' l-Avukat Ġenerali kif provdut fl-artikolu 499 ta' dan il-Kodiċi;

(iv) meta l-kawża tkun għet imhollija għal data ohra fuq talba ta' l-imputat jew tad-difensur tiegħu, għal dak iż-żmien mid-data ta' dik it-talba sad-data li għaliha jkun gie mholli s-smiegh tal-kawża.

(10) Il-provvedimenti tas-subartikoli (5) u (7) ta' dan l-artikolu ma għandhomx japplikaw meta mandat ta' arrest kontra l-persuna imputata jkun inħareġ kif provdut fl-artikolu 579 ta' dan il-Kodiċi, kemm jekk fl-istess jew f'xi kawża ohra kontri li tkun għadha pendenti quddiem xi qorti ta' ġustizzja kriminali.”.

Sostituzzjoni ta' l-artikolu 579 tal-liġi prinċipali.

### 3. Minflok l-artikolu 579 tal-liġi prinċipali għandu jidhol li ġej:

“Effetti tan-nuqqas ta' dehr tal-persuna taht garanzija, eċċ.

579. Jekk l-imputat jew akkużat jonqos li jidher għall-ordni ta' l-awtorità msemmija fl-obbligazzjoni tal-garanzija, jew jonqos li josserva xi kundizzjoni fiha imposta, jew jinheba jew jitlaq minn Malta, jew waqt li jkun meħlus mill-arrest jikkommetti delitt li ma jkunx wieħed ta' natura involontarja, jew jinterferixxi jew jipprova jinterferixxi max-xhieda jew b'mod iehor jintralċja jew jipprova jintralċja il-kors tal-ġustizzja fir-rigward tiegħu jew ta' xi persuna ohra, is-somma msemmija fl-obbligazzjoni tghaddi favur il-Gvern ta' Malta, u, barra minn dan, jiġi mahruġ mandat ta' arrest kontra tiegħu:

Iżda din id-dispożizzjoni ma għandhiex tapplika meta l-qorti tkun tal-fehma illi l-ksur tal-kundizzjoni msemmija fl-obbligazzjoni tal-garanzija ma hiex ta' konsegwenza serja.”.

4. Fis-subartikolu (1) ta' l-artikolu 509 tal-liġi prinċipali, minflok il-kliem "Hlief meta persuna tkun giet misjuba hatja ta' reat imsemmi fis-subartikolu (1) ta' l-artikolu 575, il-Qorti ta' l-Appell Kriminali tista'," għandhom jidhlu l-kliem "Il-Qorti ta' l-Appell Kriminali tista'".

Emenda ta' l-artikolu 509 tal-liġi prinċipali.

5. Is-Sub-titolu IV tat-Titolu II tat-Taqsima I tat-Tieni Ktieb tal-liġi prinċipali għandu jithassar.

Thassir tas-Sub-titolu IV tat-Titolu II tat-Taqsima I tat-Tieni Ktieb tal-liġi prinċipali.

6. (1) Id-dispożizzjonijiet tas-subartikolu (5) ta' l-artikolu 575 tal-liġi prinċipali kif emendata b'dan l-Att ma għandhomx japplikaw meta, fid-data li fihom jidhlu fis-sehħ l-imputat ikun ġa ġie akkużat quddiem il-Qorti Kriminali jew ikun ġa ġie miġħut biex jiġi ġudikat mill-Qorti tal-Pulizija Ġudizzjarja kif provdut fil-paragrafu (a) tas-subartikolu (3) ta' l-artikolu 370 jew fis-subartikolu (5) ta' l-artikolu 433 tal-liġi prinċipali jew f'xi provvediment simili f'xi liġi oħra.

Dispożizzjonijiet transitorji.

(2) Fil-każ illi, mad-dhul fis-sehħ ta' dan l-Att, xi proċedimenti jkunu pendenti quddiem xi qorti ta' ġustizzja kriminali skond id-dispożizzjonijiet tas-sub-titolu tal-liġi prinċipali imhassar bl-artikolu 5 ta' dan l-Att, dik il-Qorti għandha tastjeni milli tkompli tiehu konjizzjoni ta' dawk il-proċedimenti.

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Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 284 tat-28 ta' Lulju, 1989.

LAWRENCE GONZI  
*Speaker*

P. MUSCAT TERRIBILE  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

ĊENSU TABONE  
President

16th August, 1989

**ACT No. XXIX of 1989**

*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. (1) This Act may be cited as the Criminal Code (Amendment) Act, 1989, and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the principal law".

(2) The provisions of subsection (2) of section 2 of this Act shall come into force on such date as the Minister responsible for justice may by notice in the Gazette appoint.

Amendment of section 575 of the principal law.

2. (1) For subsection (1) of section 575 of the principal law, there shall be substituted the following:

"(1) Saving the provisions of subsection (2) of the last preceding section, in the case of—

(i) a person accused of any crime against the safety of the Government, or

(ii) a person accused of any crime liable to the punishment of imprisonment for life,

the court may grant bail, only if, after taking into consideration all the circumstances of the case, the nature and seriousness of the offence, the character, antecedents, associations and community ties of the accused, as well as any other matter which appears to be relevant, it is satisfied that there is no danger that the accused if released on bail

(a) will not appear when ordered by the authority specified in the bail bond; or

(b) will abscond or leave Malta; or

(c) will not observe any of the conditions which the court would consider proper to impose in the bail bond; or

(d) will interfere or attempt to interfere with witnesses or otherwise obstruct or attempt to obstruct the course of justice in relation to himself or to any other person; or

(e) will commit any offence.”.

(2) Immediately after subsection (4) of section 575 of the principal law, there shall be added the following subsections:

“(5) Where in the case of a person accused of a crime in respect of which the Court of Judicial Police has proceeded to the necessary inquiry the Attorney General has not either

(a) filed the indictment, or

(b) sent the accused to be tried by the Court of Judicial Police as provided in paragraph (a) of subsection (3) of section 370 or in subsection (5) of section 433 of this Code or in similar provisions in any other law

within the terms specified in subsection (6) of this section, to run from the day on which the person accused is brought before the said court, that person shall be granted bail.

(6) (a) The terms referred to in the preceding subsection are:

(i) twelve months in the case of a crime liable to the punishment of imprisonment of less than four years;

(ii) sixteen months in the case of a crime liable to the punishment of imprisonment of four years or more but less than nine years; and

(iii) twenty months in the case of a crime liable to the punishment of imprisonment of nine years or more.

(b) The terms mentioned in paragraph (a) of this subsection shall be held in abeyance for the corresponding period during which the terms referred to in sections 401, 407 and in subsection (3) of section 432 of this Code are held in abeyance for any of the reasons mentioned in subsections (1) and (2) of section 402 of this Code, as well as for such period during which the court is unable to proceed with the inquiry except after the determination of any issue before any other court.

(c) The terms mentioned in paragraph (a) of this subsection shall also be held in abeyance for the corresponding period during which the record of the inquiry is with the Court of Judicial Police for the examination of

witnesses as provided in subsection (5) of section 405 of this Code.

(7) Bail shall also always be granted to a person accused of an offence unless, within the terms specified in subsection (9) of this section, to run as provided in subsection (8) of this section, there has been a final judgement acquitting, convicting or sentencing the person so accused.

(8) The terms specified in subsection (9) of this section shall run:

(a) where no inquiry has taken place, from the day when the person accused has been brought before the Court of Judicial Police;

(b) where there has been an inquiry, from the day that the Attorney General sends the accused to be tried by the Court of Judicial Police as provided in paragraph (a) of subsection (3) of section 370 or in subsection (5) of section 433 of this Code or in similar provisions in any other law, or from the day of the filing of the indictment:

Provided that where the accused makes objection to the case being dealt with summarily as provided in paragraph (d) of subsection (3) of section 370, the term shall commence to run from the date of the filing of the indictment.

(9) (a) The terms referred to in subsections (7) and (8) of this section are:

(i) four months in the case of a contravention or of a crime liable to the punishments established for contraventions or to imprisonment for a term not exceeding six months;

(ii) eight months in the case of a crime liable to the punishment of imprisonment for a term exceeding six months but not exceeding four years;

(iii) twelve months in the case of a crime liable to the punishment of imprisonment for a term exceeding four years but not exceeding ten years;

(iv) twenty-four months in the case of a crime liable to the punishment of imprisonment for a term exceeding ten years but not exceeding fifteen years;

(v) thirty months in the case of a crime liable to the punishment of imprisonment exceeding fifteen years.

(b) The terms mentioned in paragraph (a) of this subsection shall be held in abeyance —

(i) for such period during which the court is unable to proceed with the hearing of the cause except after the determination of any issue before any other court or for any of the reasons mentioned in subsections (1) and (2) of section 402 of this Code;

(ii) for the corresponding period during which the record of the inquiry is with the Court of Judicial Police for the examination of witnesses demanded by the accused as provided in section 406 of this Code;

(iii) for such period as the case is before the Court of Criminal Appeal on an appeal entered by the accused from an interlocutory decree or on an appeal entered by the accused or by the Attorney General as provided in section 499 of this Code;

(iv) where the cause has been adjourned at the request of the accused or his counsel, for the period from the date of the request to the date of the next hearing.

(10) The provisions of subsections (5) and (7) of this section shall not apply when a warrant of arrest against the person accused has been issued as provided in section 579 of this Code, whether in the same or in any other cause still pending against him before any court of criminal justice.”.

3. For section 579 of the principal law there shall be substituted the following:

Substitutes  
section 579  
of the  
principal law.

“Consequences of default of appearance of person admitted to bail, etc.

579. If the person charged or accused fails to appear when ordered by the authority specified in the bail bond, or fails to observe any of the conditions therein imposed, or absconds or leaves Malta, or while on bail commits any crime not being one of an involuntary nature, or interferes or attempts to interfere with witnesses or otherwise obstructs or attempts to obstruct the course of justice whether in relation to himself or any other person, the sum stated in the bail bond shall be forfeited to the Government of Malta, and, moreover, a warrant of arrest shall be issued against him:

Provided that this section shall not apply where the Court considers that the infringement of the condition specified in the bail bond is not of serious consequence.”.

4. In subsection (1) of section 509 of the principal law, for the words “Except where a person has been convicted of a crime referred to in subsection (1) of section 575, the Court of Criminal Appeal may,” there shall be substituted the words “The Court of Criminal Appeal may,”.

Amendment  
of section  
509 of the  
principal  
law.

Repeal of  
Sub-title IV  
of Title II  
of Part I  
of Book  
Second of  
the principal  
law.

5. Sub-title IV of Title II of Part I of Book Second of the principal law shall be repealed.

Transitory  
provisions.

6. (1) The provisions of subsection (5) of section 575 of the principal law as amended by this Act shall not apply where on the coming into force of those provisions the person accused has already been indicted before the Criminal Court or has already been sent to be tried by the Court of Judicial Police as provided in paragraph (a) of subsection (3) of section 370 or in subsection (5) of section 433 of the principal law or in similar provisions in any other law.

(2) Where, on the coming into force of this Act, any proceedings are pending before any court of criminal justice in accordance with the provisions of the sub-title of the principal law repealed by section 5 of this Act, that court shall abstain from taking further cognizance of those proceedings.

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Passed by the House of Representatives at Sitting No. 284 of the 28th July, 1989.

LAWRENCE GONZI  
*Speaker*

P. MUSCAT TERRIBILE  
*Clerk to the House of Representatives*