



MALTA

ATT Nru. XVIII ta' l-1978

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

ATT biex jipprovdi għal u dwar l-estradizzjoni, għal u minn pajjiżi oħra, ta' persuni akkużati b'reati jew misjuba hatja ta' reati, u għal kull haġa li għandha x'taqsam magħhom jew incidentali għalihom.

ACT No. XVIII of 1978

AN ACT enacted by the Parliament of Malta.

AN ACT to make provision for and with respect to the extradition, to and from other countries, of persons accused or convicted of offences, and for any matter connected therewith or incidental thereto.



Nagħti l-kunsens tiegħi.

Anton Mantiq
President

20 ta' Mejju, 1978

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ATT biex jipprovi għal u dwar l-estradizzjoni, għal u minn pajjiżi oħra, ta' persuni akkużati b'reati jew misjuba hatja ta' reati, u għal kull haġa li għandha x'taqsam magħhom jew incidentalment għalihom.

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

TAQSIMA I

Preliminari

Titolu fil-qosor
u bidu fis-sehħ.

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1978 dwar l-Estradizzjoni.

(2) Dan l-Att għandu jibda jseħh f'dik id-data li l-Ministru jista' jistabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti dwar disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

Tifsir.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġ xort'oħra —

“arranġament”, dwar it-treġġiegh lura ta' kriminali maħruba għal jew minn xi pajjiż, li ma jkunx Malta, tisser kull trattat, konvenzjoni, ftehim jew qbil għal dak il-għan bejn Malta u dak il-pajjiż l-ieħor jew li japplika għal dawk iż-żewġ pajjiżi jew li fihom dawk iż-żewġ pajjiżi jkunu parti;

Att Nru. IX
ta' l-1976

“habs” għandha l-istess tifsir kif mogħti lilha bl-Att ta' l-1976 dwar il-Habs;

“kriminali maħrub” tisser persuna li tkun akkużata jew misjuba hatja ta' reat ta' estradizzjoni li jkun ġie magħmul fil-ġurisdiżjoni ta' xi pajjiż li ma jkunx Malta li tkun qiegħda jew ikun hemm suspett li tkun qiegħda f'Malta; u kull meta dik il-frazi

tinsab dwar xi pajjiż bħal dak, tisser kriminali maħrub akkużat jew misjub hati ta' reat ta' estradizzjoni li jkun gie magħmul fil-ġurisdizzjoni ta' dak il-pajjiż;

"Ministru" tisser il-Ministru responsabbli għall-Gustizzja;

"pajjiż" tinkludi kull territorju;

"pajjiż barrani speċifikat" għandha t-tifsir kif mogħti lilha bl-artikolu 6 ta' dan l-Att;

"pajjiż li jagħmel it-talba" tisser pajjiż li jitlob it-treġġiegh lura skond dan l-Att ta' kriminali maħrub;

"pajjiż tal-Commonwealth speċifikat" għandha t-tifsir kif mogħti lilha bl-artikolu 4 ta' dan l-Att;

"reat ta' estradizzjoni" għandha t-tifsir mogħti lilha jew bl-artikolu 5 jew bl-artikolu 8 ta' dan l-Att, skond ma jehtieg il-każ.

(2) Għall-finijiet ta' dan l-Att —

(a) persuna misjuba hatja ta' reat fin-nuqqas tagħha għandha titqies bħala persuna akkużata b'dak ir-reat;

(b) għemil jew nuqqas li jikkostitwixxi reat biss kontra liġi militari iżda mhux kontra liġi ordinarja tal-pajjiż ma jitqies bħala reat;

(c) kull kolonja, dipendenza u parti kostitwenti ta' pajjiż, u kull bastiment u kull inġenju ta' l-ajru ta' dak il-pajjiż jew reġistrat fih, għandu (hief fejn imsemmi espressament bħala distint f'dan l-Att jew xort'ohra provdut espressament) jitqies li jkun fil-ġurisdizzjoni ta' dak il-pajjiż u li jkun parti minnu.

TAQSIMA II

Treġġiegh lura ta' min jagħmel reati lejn Pajjiżi tal-Commonwealth

3. Bla ħsara għad-disposizzjonijiet ta' dan l-Att, persuna misjuba f'Malta u li tkun akkużata b'reat ta' estradizzjoni f'xi pajjiż tal-Commonwealth speċifikat jew li jkun allegat li tkun hielsa kontra liġi wara li tkun instabet hatja ta' dak ir-reat f'xi pajjiż bħal dak, tista' tiġi arrestata u mreġġgħha lura lejn dak il-pajjiż kif provdut b'dan l-Att.

Persuni li jistgħu jiġu mreġġgħin lura.

4. (1) Il-Ministru jista' b'ordni jispeċifika għall-finijiet ta' l-artikolu 3 ta' dan l-Att kull pajjiż li f'dak iż-żmien ikun imsemmi fis-subartikolu (3) ta' l-artikolu 29 tal-Kostituzzjoni ta' Malta, jew kull pajjiż ieħor fil-Commonwealth; u kull pajjiż li f'dak iż-żmien ikun hekk speċifikat qieghed f'dan l-Att jissejjah pajjiż tal-Commonwealth speċifikat.

Pajjiż tal-Commonwealth speċifikat.

(2) Il-Ministru jista' bl-istess ordni jew b'ordni ieħor wara jordna li dan l-Att ikollu effett dwar it-treġġiegh lura ta' persuni għal, jew dwar il-persuni mreġġgħin lura minn, xi pajjiż tal-Commonwealth speċifikat, skond dawk il-kondizzjonijiet, eċċezzjonijiet, addattamenti jew modifiki kif jista' jiġi speċifikat fl-ordni.

(3) Għall-finijiet ta' kull ordni magħmul taħt id-disposizzjonijiet ta' qabel ta' dan l-artikolu, kull territorju li dwar ir-relazzjonijiet barranin tiegħu jkun responsabbli pajjiż tal-Commonwealth jista' jitqies bħala parti minn dak il-pajjiż jew, jekk il-Gvern ta' dak il-pajjiż hekk jitlob, bħala pajjiż separat.

Reati ta' estradizzjoni dwar pajjiżi tal-Commonwealth speċifikati.

5. (1) Għall-finijiet ta' dan l-Att reat li bih persuna tkun akkużata jew kienet misjuba hatja f'pajjiż tal-Commonwealth speċifikat jkun reat ta' estradizzjoni dwar dak il-pajjiż jekk —

(a) ikun reat li, ikun kif ikun deskritt fil-liġi ta' dak il-pajjiż, jaqa' taht xi waħda mid-deskrizzjonijiet murija fl-Iskeda li tinsab ma' dan l-Att, u li dwaru wieħed jista' jehel skond dik il-liġi prigunerija għal żmien ta' tnaħ-il xahar jew xi piena akbar; u

(b) l-għemil jew in-nuqqas li jikkostitwixxi r-reat, jew l-għemil jew in-nuqqas ekwivalenti, kien jikkostitwixxi reat kontra l-liġi ta' Malta li kieku sar f'Malta jew, fil-każ ta' reat extra-territorjali, fl-istess ċirkostanzi barra minn Malta.

(2) Sabiex jiġi stabbilit għall-finijiet ta' dan l-artikolu jekk reat kontra l-liġi ta' pajjiż tal-Commonwealth speċifikat jaqax taht id-deskrizzjoni murija fl-imsemmija Skeda kull hsieb jew stat tal-moħħ speċjali jew ċirkostanzi speċjali aggravanti li jistgħu jkunu meħtieġa biex jikkostitwixxi dak ir-reat skond il-liġi ma għandhomx jiġu meqjusa.

(3) Id-deskrizzjonijiet murija fl-imsemmija Skeda jinkludu r-reati li hemm deskritti fiha kemm jekk ikollhom magħhom ċirkostanzi aggravanti jew mitiganti kemm jekk le, u jinkludu wkoll f'kull każ reati ta' komplicità f'kull reat bħal dak jew ta' attentat dwar dak ir-reat skond it-tifsir rispettivament ta' l-artikolu 42 jew 43 tal-Kodiċi Kriminali.

(4) Riferenzi f'dan l-artikolu għal-liġi ta' xi pajjiż jinkludu riferenzi għal-liġi ta' kull parti ta' dak il-pajjiż.

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TAQSIMA III

Treġġiegh lura ta' min jagħmel reati lejn pajjiżi oħra barrani

Persuni li jistgħu jiġu mreggħin lura.

6. Bla ħsara għad-disposizzjonijiet ta' dan l-Att, persuna misjuba f'Malta u li tkun akkużata b'reat ta' estradizzjoni f'xi pajjiż barrani speċifikat jew li jkun allegat li tkun hielsa kontra l-liġi wara li tkun instabet hatja ta' dak ir-reat f'xi pajjiż bħal dak, tista' tiġi arrestata u mreggħha lura f'dak il-pajjiż kif provdut b'dan l-Att.

Pajjiż barrani speċifikat.

7. (1) Il-Ministru jista' b'ordni jispeċifika għall-finijiet ta' l-artikolu 6 ta' dan l-Att kull pajjiż li miegħu jkun hemm jew ikun sar arrangament, kemm qabel jew wara l-bidu fis-seħħ ta' dan l-artikolu, għat-treġġiegh lura lejn dak il-pajjiż ta' kull kriminali mahrub; u kull pajjiż li f'dak iż-żmien ikun hekk speċifikat qieghed f'dan l-Att jissejjaħ pajjiż barrani speċifikat.

(2) Il-Ministru jista' bl-istess ordni jew b'ordni ieħor wara jordna li dan l-Att ikollu effett dwar it-treġġiegh lura ta' persuni għal jew dwar il-persuni mreggħin lura minn, xi pajjiż barrani speċifikat, skond dawk il-kondizzjonijiet, eċċezzjonijiet, addattamenti jew modifiki kif jista' jiġi speċifikat fl-ordni.

(3) Bla ħsara għad-disposizzjonijiet ta' dan l-Att, kull ordni bħal dak għandu jew jikkwota jew ikun fih il-pattijiet ta' l-arrangament li għalih jirreferixxi jew għandu jkun fih riferenza għall-pubblikazzjoni tiegħu fil-Gazzetta jew għall-preżentazzjoni tiegħu fil-Kamra tad-Deputati, u m'għandux jibqa' jseħħ għal żmien li jkun itwal mill-arrangament.

(4) Is-subartikolu (3) ta' dan l-artikolu m'għandux japplika għal xi arrangament li ma jkunx fis-seħħ minnufih qabel il-bidu fis-seħħ ta' dan l-artikolu.

8. (1) Għall-finijiet ta' dan l-Att, reat li bih persuna tkun akkuzata jew kienet misjuba hatja f'pajjiż barrani speċifikat ikun reat ta' estradizzjoni dwar dak il-pajjiż jekk —

Reati ta' estradizzjoni dwar pajjiżi barranin speċifikati.

(a) ikun reat li dwaru kriminali maħrub jista' jittreggħa lura għal dak il-pajjiż skond l-arrangament u li dwaru wiehed jista' jehel skond dik il-liġi prigunerija għal żmien ta' tnax-il xahar jew piena akbar; u

(b) l-għemil jew in-nuqqas li jikkostitwixxi r-reat, jew l-għemil jew in-nuqqas ekwivalenti kien jikkostitwixxi reat kontra l-liġi ta' Malta li kieku sar f'Malta jew, fil-każ ta' reat extra-territorjali, fl-istess ċirkostanzi barra minn Malta.

(2) Sabiex jiġi stabbilit għall-finijiet ta' dan l-artikolu jekk reat jaqax taħt il-ħtiġiet tal-paragrafi (a) u (b) tas-subartikolu (1) ta' dan l-artikolu, id-deskrizzjoni tar-reat ma titqiesx bħala sostanzjali jekk ir-reati skond il-liġi ta' Malta u dik tal-pajjiż li jagħmel it-talba jkunu sostanzjalment ta' l-istess xorta.

9. Ordni magħmul taħt l-artikolu 7 ta' dan l-Att m'għandux isir kemm-il darba l-arrangament li għalih l-ordni jkun maħsub li jirreferi —

Provdimenti dwar arrangamenti, eċċ għal treggħiegh lura.

(a) ma jipprovdix għat-tmiem tiegħu minn kull waħda mill-partijiet wara li tagħti avviz ta' mhux iktar minn sena; u

(b) ma jkunx jaqbel mad-disposizzjonijiet ta' dan l-Att, u b'mod partikolari mar-restrizzjonijiet tal-konsenja ta' kriminali maħrubin li hemm f'dan l-Att.

TAQSIMA IV

Disposizzjonijiet applikabbli għat-treggħiegh lura ta' min jagħmel reati għall-pajjiżi kollha

10. (1) Persuna m'għandhiex titreggħha lura skond dan l-Att għal xi pajjiż, jew tintbagħat jew tinzamm f'kustodja għall-finijiet ta' dak it-treggħiegh lura, jekk fil-fehma tal-Ministru jew tal-qorti riman-danti —

Restrizzjonijiet generali dwar treggħiegh lura.

(a) ir-reat li bih dik il-persuna hija akkuzata jew li tiegħu giet misjuba hatja huwa reat ta' natura politika; jew

(b) it-talba għat-treggħiegh lura ta' dik il-persuna (għalkemm tkun tidher li qed issir minhabba reat ta' estradizzjoni) hija fil-fatt magħmula biex l-istess persuna tiġi pprocessata jew penalizzata minhabba r-razza, il-post ta' oriġini, in-nazzjonalità, il-fehmiet politiċi, il-kulur jew it-twemmin tagħha; jew

(c) dik il-persuna tista', jekk titreggħha lura, tiġi ppreġudikata fil-proċess tagħha jew tiġi penalizzata, miżmuma jew limitata fil-liberta personali tagħha minhabba r-razza, il-post ta' oriġini, in-nazzjonalità, il-fehmiet politiċi, il-kulur jew it-twemmin tagħha.

(2) Persuna akkuzata b'reat m'għandhiex titreggħha lura skond dan l-Att għal xi pajjiż, jew tintbagħat jew tinzamm f'kustodja għall-finijiet ta' dak it-treggħiegh lura, jekk kif intqal qabel ikun jidher li kieku kienet akkuzata b'dak ir-reat f'Malta kien ikollha jedd li tiġi liberata skond xi regola tal-liġi relattiva għal liberazzjoni precedenti jew dikjarazzjoni ta' htija precedenti.

(3) Persuna m'għandhiex titreġġgħa lura skond dan l-Att għal xi pajjiż, jew tintbagħat jew tinzamm f'kustodja għall-finijiet ta' dak it-treġġiegh lura, jekk il-liġi ta' dak il-pajjiż ma tipprovdix, jew jekk ma jkunx sar arrangament ma' dak il-pajjiż, biex jiġi żgurat li ma tittiehed ebda azzjoni f'dak il-pajjiż kontra dik il-persuna, kemm-il darba dik il-persuna ma tkunx treġġgħet lura jew kellha l-oppurtunità li tiġi lura Malta, minhabba jew dwar xi reat li dik il-persuna tkun għamlet qabel it-treġġiegh lura tagħha skond dan l-Att li ma jkunx —

(a) ir-reat li dwaru jintalab it-treġġiegh lura skond dan l-Att;

(b) xi reat inqas gravi pruvat bil-fatti li ġew ippruvati quddiem il-qorti rimandanti; jew

(c) xi reat ieħor li jkun reat ta' estradizzjoni li dwaru l-Ministru jagħti l-kunsens tiegħu sabiex fuq dak ir-reat tittiehed azzjoni kontra dik il-persuna.

(4) Kull arrangament hekk kif imsemmi fis-subartikolu (3) ta' dan l-artikolu jista' jkun arrangament magħmul għall-każ partikolari jew arrangament ta' natura iktar ġenerali; u għall-fini ta' dak is-subartikolu ċertifikat maħruġ minn jew taħt l-awtorità tal-Ministru li jikkonferma l-eżistenza ta' arrangament ma' xi pajjiż u li juri l-pattijiet tiegħu jkun prova konklużiva ta' dak li jkun jinsab f'dak iċ-ċertifikat.

(5) Għall-finijiet ta' dan l-artikolu, reat kontra l-hajja jew il-persuna ta' Kap ta' Stat, jew xi reat relattiv deskritt fis-subartikolu (3) ta' l-artikolu 5 ta' dan l-Att, ma jkunx neċessarjament meqjus bħala reat ta' xorta politika.

Setgħat tal-Ministru dwar treġġiegh lura ta' min jagħmel reati.

II. (1) Persuna m'għandhiex titreġġgħa lura skond dan l-Att għal xi pajjiż, jew tintbagħat jew tinzamm f'kustodja għall-finijiet ta' dak it-treġġiegh lura, jekk il-Ministru, fl-eżerċizzju ta' xi setgħa mogħtija lil, jew riżervata mill-Gvern f'arrangament jew dwar xi arrangament, ikun hekk ordna.

(2) Bla ħsara għall-ġeneralità tad-disposizzjoni tas-subartikolu (1) ta' dan l-artikolu, il-Ministru jista' jirrifjuta li jagħmel ordni taħt l-artikolu 13 jew l-artikolu 21 ta' dan l-Att f'kull wieħed mill-każijiet li ġejjin —

(a) meta t-talba tkun għal persuna maħruba wara li tkun instabet haġta u l-piena mogħtija tkun inqas minn erba' xhur prigunerija;

(b) meta skond il-liġi tal-pajjiż li jagħmel it-talba r-reat li dwaru jkun qed jintalab it-treġġiegh lura jkun sugġett għall-piena tal-mewt u l-pajjiż li jagħmel it-talba ma jkunx ta' assigurazzjoni aċċettata bħala biżżejjed mill-Ministru li l-piena tal-mewt ma tingħatax jew, jekk tingħata, li ma tiġix esegwita;

(c) meta t-talba tkun għat-treġġiegh lura ta' persuna misju-ba haġta ta' reat fin-nuqqas tagħha u l-pajjiż li jagħmel it-talba ma jkunx ta' assigurazzjoni aċċettata bħala biżżejjed mill-Ministru li dik il-persuna tiġi proċessata mill-ġdid jekk hi hekk titlob;

(d) jekk il-proċeduri għar-reat li dwaru tkun mitluba estradizzjoni jkunu preskritti jew skond il-liġi ta' Malta jew skond il-liġi tal-pajjiż li jagħmel it-talba;

(e) meta t-talba tkun għal persuna li tkun f'Malta wara li tkun treġġgħet lura hawnhekk kif imsemmi fis-subartikolu (1)

ta' l-artikolu 25 ta' dan l-Att u l-Gvern ikun taht obbligu li ma jreggax lura lil dik il-persuna lil pajjiz ieħor;

(f) jekk tkun ingħatat xi amnestija dwar ir-reat li għalih ikun qed jintalab it-treġġiegh lura u l-qrati ta' Malta kellhom ġurisdizzjoni dwar dak ir-reat;

(g) jekk il-persuna li tintalab l-estraddizzjoni tagħha tkun ċittadin ta' Malta.

12. Persuna li tkun ġiet akkużata b'reat fil-ġurisdizzjoni ta' Malta, li ma jkunx ir-reat li għalih ikun qed jiġi mitlub it-treġġiegh lura tagħha, jew tkun qed tiskonta sentenza għax kienet misjuba hatja f'Malta, m'għandhiex titreġġgħa lura skond dan l-Att għal xi pajjiz, jew tintbagħat jew tinzamm f'kustodja għall-fini ta' dak it-treġġiegh lura, sakemm ma tkunx ġiet mehluša jew b'liberazzjoni jew meta tkun skontat is-sentenza tagħha jew xort'oħra.

Dewmien fi treġġiegh lura.

13. (1) Bla ħsara għad-disposizzjonijiet ta' dan l-Att dwar mandati proviżorji, xejn ma għandu jsir dwar persuna skond dan l-Att ħlief bis-saħħa ta' ordni tal-Ministru (f'dan l-Att imsejjaħ awtorità għal proċediment) maħruġ fuq talba magħmula lill-Ministru minn jew f'isem il-gvern tal-pajjiz tal-*Commonwealth* speċifikat jew tal-pajjiz barrani speċifikat li fih il-persuna li għandha tiġi mreġġgħa lura hi akkużata jew kienet misjuba hatja.

Awtorità għal proċedimenti.

(2) Għandu jingħata ma' kull talba magħmula għall-finijiet ta' dan l-artikolu f'isem xi pajjiz —

(a) fil-każ ta' persuna akkużata ta' reat, mandat għall-arrest tagħha maħruġ f'dak il-pajjiz;

(b) fil-każ ta' persuna ħielsa kontra l-liġi wara li nstabet hatja ta' reat, ċertifikat tad-dikjarazzjoni ta' ħtija u tal-kundanna f'dak il-pajjiz, u dikjarazzjoni ta' kemm, jekk ikun il-każ, ġie skontat minn dik il-kundanna; flimkien, f'kull każ, ma' —

(i) il-partikolaritajiet tal-persuna li t-treġġiegh lura tagħha jkun mitlub, magħdud tagħrif biżżejjed biex jiġu stabbiliti l-identità u n-nazzjonalità tagħha;

(ii) il-partikolaritajiet tal-fatti li fuqhom u tal-liġi li taħtha dik il-persuna tkun akkużata jew tkun instabet hatja, id-deskrizzjoni legali tar-reat u kopja tal-leġislazzjonijiet relattivi jew (jekk dan ma jkunx prattikabbli) dikjarazzjoni dwar il-liġi rilevanti; u

(iii) prova biżżejjed biex ikun ġustifikat l-ħruġ ta' mandat għall-arrest tagħha skond l-artikolu 14 ta' dan l-Att.

(3) Meta jirċievi talba bħal dik, il-Ministru jista' joħroġ ordni ta' proċediment kemm-il darba ma jidherlux li ordni għat-treġġiegh lura ta' dik il-persuna ma jkunx jista' jsir legalment, jew fil-fatt ma għandux isir, skond id-disposizzjonijiet ta' dan l-Att.

14. (1) Mandat għall-arrest ta' persuna akkużata b'reat ta' estraddizzjoni jew li jkun allegat li tkun ħielsa kontra l-liġi wara li tkun instabet hatja ta' dak ir-reat, jista' jiġi maħruġ minn Maġistrat tal-Pulizija Gudizzjarja —

Arrest biex persuna tintbagħat lura.

(a) meta jirċievi awtorità għal proċediment; jew

(b) mingħajr dik l-awtorità, fuq tagħrif li l-imsemmija per-

sunha tkun, jew li maħsuba li tkun, f'Malta jew fi triqtha lejha Malta;

u kull mandat maħruġ bis-saħħa tal-paragrafu (b) ta' dan is-subartikolu huwa f'dan l-Att imsejjaħ mandat proviżorju.

(2) Mandat ta' arrest skond dan l-artikolu jista' jiġi maħruġ fuq dawk il-provi li, fil-fehma tal-Maġistrat, kienu jawtorizzaw il-ħruġ ta' mandat għall-arrest ta' persuna akkużata bl-egħmil ta' reat korrispondenti jew, skond il-każ, ta' persuna li hu allegat dwarha li hi hielsa kontra l-liġi wara li nstabet ħatja ta' reat fil-ġurisdizzjoni tal-qorti tal-ġustizzja kriminali f'Malta.

(3) Meta mandat proviżorju jkun maħruġ skond dan l-artikolu, il-maġistrat li jkun ħarġu għandu minnufih jagħti avviz lill-Ministru, u jibagħtlu t-tagħrif u l-provi, jew kopji awtentikati tat-tagħrif u l-provi, li fuqhom ikun hareġ; u l-Ministru jista' f'kull każ, u għandu jekk jeddeċiedi li ma jidherx awtorità għal proċediment dwar il-persuna li għaliha jirreferixxi l-mandat, b'ordni jħassar il-mandat u, jekk dik il-persuna tkun giet arrestata bis-saħħa tiegħu, jehlišha mill-kustodja.

(4) Mandat maħruġ skond dan l-artikolu għandu minnufih jiġi eżegwit minn uffiċjal tal-pulizija.

(5) Id-disposizzjonijiet ta' l-artikoli 362, 363(1), 364, 366, 367 u 369 tal-Kodiċi Kriminali għandhom japplikaw *mutatis mutandis* għal mandat ta' arrest u għal mandat ta' perkwiżizzjoni maħruġa għall-finijiet ta' dan l-Att.

Proċedimenti
biex persuna
tintbagħat lura.

15. (1) Persuna arrestata bis-saħħa ta' mandat skond l-artikolu 14 ta' dan l-Att għandha (jekk ma tkunx giet meħlusa qabel skond is-subartikolu (3) ta' dak l-artikolu) titressaq malajr kemm ikun pratikabbli u f'ebda każ aktar tard minn tmienja u erbgħin siegħa mill-arrest tagħha quddiem il-Qorti tal-Pulizija Gudizzjarja għall-Gżira ta' Malta bħala qorti ta' kumpilazzjoni (f'dan l-Att imsejja l-qorti rimandanti) li għandu jkollha għall-finijiet tal-proċedimenti skond dan l-artikolu l-istess setgħat, safejn jista' jkun, magħduda s-setgħa li tibgħat f'kustodja jew teħles mill-arrest bi plegg, kif l-imsemmija qorti għandha meta tkun kostitwita kif intqal qabel.

(2) Meta l-persuna arrestata tkun f'kustodja bis-saħħa ta' mandat proviżorju u ebda awtorità għal proċediment ma tkun giet riċevuta dwarha, il-qorti rimandanti tista' tistabbilixxi żmien xieraq (li tiegħu l-qorti għandha tagħti avviz lill-Ministru) li wara li jgħaddi dik il-persuna għandha tiġi meħlusa mill-kustodja jekk dik l-awtorità ma tiġix riċevuta.

(3) Meta awtorità għal proċediment tkun giet maħruġa dwar il-persuna arrestata u l-qorti rimandanti tkun sodisfatta, wara li tisma' l-provi kollha miġjuba biex isostnu t-talba għat-treġġieġ lura ta' dik il-persuna jew miġjuba f'isem dik il-persuna, li r-reat li dwaru dik l-awtorità tirreferixxi huwa reat ta' estradizzjoni u tkun ukoll sodisfatta —

(a) jekk il-persuna hija akkużata bir-reat, illi l-provi jkunu biżżejjed biex jiġġustifikaw li dik il-persuna tghaddi proċeduri dwar dak ir-reat li kieku kien sar fil-ġurisdizzjoni tal-Qorti tal-Ġustizzja Kriminali ta' Malta;

(b) jekk jiġi allegat dwar dik il-persuna li hi hielsa kontra l-liġi wara li nstabet ħatja ta' reat, illi hi kienet verament misjuba hekk ħatja u jidher li tkun hekk hielsa,

il-Qorti ghandha, kemm-il darba ma jkunx projbit li dik il-persuna hekk tintbaghat minn xi disposizzjoni ohra ta' dan l-Att, tibghatha taht kustodja ghall-fini tat-treggiegh lura taghha taht dan l-Att; izda jekk il-Qorti ma tkunx hekk sodisfatta jew ikun hekk projbit li dik il-persuna tintbaghat taht kustodja ghal dak il-fini, il-Qorti ghandha tehlisa mill-kustodja:

Izda minkejja kull ordni li jehlisa minn kustodja dik il-persuna tibqa' f'kustodja sakemm ighaddu tliet ijiem tax-xoghol minn kull ordni bhal dak u, meta jkun sar appell mill-Avukat Generali, sakemm l-appell jinqata' jew jigi abbandunat, jew l-Avukat Generali jaghti l-kunsens tieghu ghall-helsien ta' dik il-persuna.

16. Meta persuna tintbaghat f'kustodja skond l-artikolu 15 ta' dan l-Att, il-Qorti ghandha, barra milli tgharrafha li ma tkunx se titregggha lura qabel ma jghaddu hmistax-il jum mid-data ta' l-ordni ta' kustodja u li hi tista' tappella lill-Qorti ta' l-Appell Kriminali, tgharrafha ukoll illi, jekk jidhrilha li xi wahda mid-disposizzjonijiet tas-subartikolu (1) u (2) ta' l-artikolu 10 ta' dan l-Att tkun giet miksura jew li xi disposizzjoni tal-Kostituzzjoni ta' Malta hija, tkun giet jew x'aktarx tkun se tigi miksura dwar il-persuna taghha hekk li tkun gustifikata r-revoka, l-annullament jew il-modifika ta' l-ordni ta' kustodja tal-qorti, hija ghandha jedd li titlob rimedju skond id-disposizzjonijiet ta' l-artikolu 47 ta' l-imsemmija Kostituzzjoni.

Dmir tal-qorti rimandanti li tgharraf persuna bil-jeddijiet taghha.

17. (1) Kull persuna mqieghda jew mibghuta taht kustodja skond l-artikolu 15 ta' dan l-Att ghandha tintbaghat il-habs u ghandha tigi meqjusa bhala persuna li tkun qed tistenna biex isirulha l-proceduri.

Kustodja.

(2) Dik il-persuna ghandha titqies li tkun taht kustodja legali mill-hin li hekk titqieghed jew tintbaghat sakemm tkun 'il barra mill-gurisdizzjoni tal-Qorti tal-Gustizzja Kriminali ta' Malta.

18. (1) Appell minn ordni li jibghat persuna taht kustodja skond l-artikolu 15 ta' dan l-Att ghandu jsir b'rikors lill-Qorti ta' l-Appell Kriminali, li jkun fih talba ghar-revoka ta' l-ordni tal-Qorti, u ghandu jigi prezentat fir-Registru tal-qorti rimandanti mhux iktar tard mill-erbat ijiem tax-xoghol mid-data ta' l-imsemmi ordni.

Appell minn persuna mibghuta f'kustodja.

(2) Ir-Registatur tal-qorti rimandanti ghandu, mhux iktar tard mill-ewwel jum tax-xoghol ta' wara, jibghat ir-rikors, flimkien mal-proccess, lir-Registatur tal-Qorti ta' l-Appell Kriminali, li ghandu, minghajr dewmien, jibghat kopja tar-rikors lill-Avukat Generali.

(3) Avviz tal-jum stabbilit ghas-smiegh ta' l-appell ghandu jintbaghat mir-Registatur tal-Qorti ta' l-Appell Kriminali lill-appellant u lill-Avukat Generali:

Izda, hlief bil-kunsens kemm ta' l-appellant u kemm ta' l-Avukat Generali, dak is-smiegh ma ghandux isir qabel ma jghaddu jumejn tax-xoghol wara li l-imsemmi avviz ikun inghata.

(4) Jekk il-Qorti ta' l-Appell Kriminali tirrevoka d-decizjoni tal-Qorti tal-Pulizija Gudizzjarja, il-Qorti ghandha tordna li l-appellant jigi liberat.

19. (1) Meta d-decizjoni tal-Qorti tal-Pulizija Gudizzjarja tkun hekk li t-treggiegh lura tal-persuna li jkun mitlub ma jistax isir, il-Qorti ghandha, fi zmien erbgha u ghoxrin siegha, tibghat lill-Avukat

Appell mill-Avukat Generali.

Generali l-proċess flimkien ma' kopja tad-deċiżjoni tagħha, u l-Avukat Generali jista', fi żmien tlett ijiem tax-xogħol mid-data li fiha jirċievi dak il-proċess, jappella lill-Qorti ta' l-Appell Kriminali b'rikors, li jkollu miegħu l-imsemmi proċess u kopja tad-deċiżjoni tal-qorti rimandanti, ippreżentat fir-Reġistru tal-Qorti ta' l-Appell Kriminali. Kopja tar-rikors għandha tiġi notifikata lill-persuna li t-treġġiegh lura tagħha jkun qed jiġi mitlub.

(2) Fuq kull appell skond dan l-artikolu d-disposizzjonijiet tas-subartikolu (3) ta' l-artikolu 18 ta' dan l-Att għandhom japplikaw *mutatis mutandis* u jekk il-Qorti ta' l-Appell Kriminali tordna li l-persuna li t-treġġiegh tagħha jkun qed jiġi mitlub tintbagħat taħt kustodja dak l-ordni għandu jiġi meqjus, għall-finijiet kollha barra milli għal appell dwaru, bħala ordni li jibgħat lil dik il-persuna taħt kustodja.

Setgħat tal-Qorti ta' l-Appell Kriminali u tal-Qorti Kostituzzjonali.

20. Fuq appell magħmul lill-Qorti ta' l-Appell Kriminali jew fuq rikors għal rimedju lill-Qorti Kostituzzjonali taħt l-artikolu 47 tal-Kostituzzjoni ta' Malta, kull waħda mill-imsemmija Qrati tista', bla hsara għal kull ġurisdiżjoni oħra, tordna li l-persuna mibgħuta taħt kustodja tiġi mehłusa mill-kustodja jekk fil-fehma ta' dik il-Qorti —

(a) minhabba n-natura trivjali tar-reat li bih hija akkuzata jew giet misjuba hatja; jew

(b) minhabba ż-żmien li jkun għadda minn meta jingħad li għamlet ir-reat jew li saret hielsa kontra l-liġi, skond il-każ; jew

(c) minhabba li l-akkuza miġjuba kontriha mhix magħmula *in bona fide* fl-interess tal-ġustizzja,

ikun, meta jiġu kkunsidrati ċ-ċirkostanzi kollha, ingust jew oppressiv li tiġi mreġġgħa lura.

Ordni għat-treġġiegh lura lejn il-pajjiż li għamel it-talba.

21. (1) Meta persuna tkun mibgħuta taħt kustodja biex tistenna li titreġġgħa lura u ma tiġix liberata b'ordni tal-Qorti ta' l-Appell Kriminali jew ta' xi Qorti kompetenti oħra, il-Ministru jista' b'mandat jordna li tiġi mreġġgħa lura lill-pajjiż li għamel it-talba kemm-il darba t-treġġiegh lura ta' dik il-persuna ma jkunx projbit, jew projbit għal dak iż-żmien, bl-artikolu 10 jew bl-artikolu 12 ta' dan l-Att, jew il-Ministru jiddeċiedi skond dan l-artikolu jew skond l-artikolu 11 ta' dan l-Att li ma jagħmel ebda ordni bħal dak fil-każ tagħha.

(2) Persuna m'għandhiex titreġġgħa lura għal xi pajjiż skond dan l-Att —

(a) f'kull każ, sakemm iġhaddu hmistax-il jum li jibdedw bil-jum li fih ikun sar l-ordni biex tiġi mibgħuta taħt kustodja;

(b) jekk il-persuna mibgħuta taħt kustodja jkollha l-jedd tibda xi proċedimenti, sew ta' appell jew xort'oħra, li jistgħu jwasslu għar-revoka, l-annullament jew il-modifika ta' l-ordni tal-Qorti biex tiġi mibgħuta taħt kustodja, u jkun hemm stabbilit b'liġi jew ikun gie stabbilit b'ordni jew b'sentenza tal-Qorti żmien li fih dawk il-proċedimenti għandhom jinbdew, sakemm iġhaddi dak iż-żmien;

(c) jekk xi proċedimenti msemmija fl-aħħar paragrafu ta' qabel dan ikunu mbdew, sakemm jispiċċaw dawk il-proċedimenti;

Iżda il-proċedimenti għandhom jitqiesu li spiċċaw ukoll jekk jiġu rtirati jew abbandunati.

(3) Il-Ministru ma għandux jagħmel ordni skond dan l-artikolu fil-każ ta' xi persuna, jekk ikun jidher lill-Ministru, għar-

raġunijiet imsemmija fl-artikolu 20 ta' dan l-Att, li jkun inġust jew oppressiv li dik il-persuna titreġġgħha lura jew jekk ikun tal-fehma, għar-raġunijiet imsemmija fis-subartikolu (1) ta' l-artikolu 10 ta' dan l-Att, li l-ordni ma għandux isir.

(4) Il-Ministru jista' jiddeċiedi li ma jagħmel ebda ordni f'dak iż-żmien taħt dan l-artikolu għat-treġġiegh lura ta' persuna miż-muma għal hekk mill-Qorti minhabba talba magħmula minn xi pajjiż jekk talba oħra għat-treġġiegh lura tagħha skond dan l-Att tkun sarret minn pajjiż ieħor u l-Ministru jkun jidhirlu, meta jikkonsidra ċ-ċirkostanzi kollha tal-każ u b'mod partikolari —

(a) il-gravità relattiva tar-reat li jkun;

(b) id-data li fiha kull waħda minn dawk it-talbiet ġew magħmula; u

(ċ) in-nazzjonalità jew iċ-ċittadinanza tal-persuna li tkun u r-residenza ordinarja tagħha,

li għandha tingħata preferenza lit-talba l-oħra.

(5) Avviż tal-ħruġ ta' mandat taħt dan l-artikolu għandu jingħata minnufih lill-persuna li tkun se tiġi mreġġgħha lura bis-saħħa tiegħu.

22. (1) F'kull proċeduri taħt jew għall-finijiet ta' dan l-Att Provi. dwar persuna taħt kustodja skond dan l-Att —

(a) dokument, awtentikat kif imiss, li juri xiehda mogħtija taħt għurament fil-pajjiż li għamel it-talba jiġi ammess bħala prova ta' dak li jkun fih;

(b) dokument, awtentikat kif imiss, li juri li ġie riċevut bħala prova, jew li hu kopja ta' dokument hekk riċevut, f'xi proċeduri f'xi pajjiż bħal dak għandu jiġi ammess bħala prova;

(ċ) dokument, awtentikat kif imiss, li jiċċertifika li persuna tkun ġiet misjuba hatja f'data speċifikata fid-dokument ta' reat kontra l-liġi ta', jew ta' parti minn, xi pajjiż bħal dak għandu jiġi ammess bħala prova tal-fatt u tad-data li fih tkun instabet hatja.

(2) Id-dokument għandu jitqies li huwa awtentikat kif imiss għall-fini ta' dan l-artikolu —

(a) fil-każ ta' dokument li juri xiehda mogħtija kif intqal qabel, jekk id-dokument juri li hu iċċertifikat minn imħallef jew maġistrat jew uffiċjal f'dak jew ta' dak il-pajjiż bħala li hu dokument oriġinali li fih jew li jirreġistra dik ix-xhieda jew kopja vera ta' dak id-dokument oriġinali;

(b) fil-każ ta' dokument li juri li ġie riċevut bħala prova kif intqal qabel jew li hu kopja ta' dokument hekk riċevut, jekk id-dokument juri li hu iċċertifikat kif intqal qabel li kien, jew li hu kopja vera ta' dokument li jkun ġie hekk riċevut;

(ċ) fil-każ ta' dokument li jiċċertifika li persuna kienet misjuba hatja kif intqal qabel, jekk id-dokument juri li hu iċċertifikat kif intqal qabel,

u f'kull każ bħal dan id-dokument ikun awtentikat jew bil-għurament ta' xhud jew bis-sigill uffiċjali ta' Ministru fil-pajjiż jew tal-pajjiż li għamel it-talba.

(3) Il-Kummissarju tal-Pulizija jew l-Avukat Generali, skond il-każ, ikun jista' kif ukoll tkun tista' l-persuna li t-treġġiegh lura tagħha ikun qed jiġi mitlub, tipproduċi provi quddiem il-Qorti

ta' l-Appell Kriminali wkoll jekk dawk il-provi ma jkunux ingiebu quddiem il-qorti rimandanti.

(4) F'dan l-artikolu, "gurament" tinkludi affermazzjoni jew dikjarazzjoni; u ebda haġa f'dan l-artikolu ma għandha tiftiehem li tippregudika l-ammissjoni bħala prova ta' xi dokument li huwa ammissibbli bħal prova wkoll minbarra dan l-artikolu.

Konsenja ta' proprjetà.

23. (1) Il-Ministru jista', permezz tal-Kummissarju tal-Pulizija, jaqbad u jikkonsenja lill-pajjiż li għamel it-talba kull proprjetà —

(a) li tista' tkun meħtieġa bħala prova f'dak il-pajjiż; jew

(b) li tkun giet akkwistata bħala rizultat tar-reat u li, fil-hin ta' l-arrest tal-persuna li t-treġġiegh lura tagħha jkun qed jiġi mitlub, tinsab fil-pussess ta' dik il-persuna jew tinsab wara.

(2) Il-proprjetà msemmija fis-subartikolu (1) ta' dan l-artikolu tista' tiġi kkonsenjata lill-pajjiż li għamel it-talba ukoll jekk l-estradizzjoni, li tkun giet milqugħa, ma tkunx tista' ssir minhabba l-mewt jew il-harba tal-persuna li t-treġġiegh lura tagħha jkun qed jiġi mitlub.

(3) Meta l-imsemmija proprjetà tkun tista' tiġi maqbuda jew konfiskata f'Malta, il-Ministru jista', dwar il-proċeduri li jkunu pendenti jew dwar proċeduri li jkunu se jittiehdu, temporanjament iżomm dik il-proprjetà jew jikkonsenjaha lill-pajjiż li għamel it-talba bil-kondizzjoni li tingħata lura.

Liberazzjoni fil-każ ta' dewmien fit-treġġiegh lura.

24. (1) Jekk xi persuna mizmuma bi stennija għat-treġġiegh lura tkun taht kustodja f'Malta skond dan l-Att wara li jgħaddi ż-żmien li ġej, jiġifieri —

(a) f'kull każ, iż-żmien ta' xahrejn li jibda jgħodd fl-ewwel jum li fih, meta jitqies is-subartikolu (2) tal-artikolu 21 ta' dan l-Att, hi setgħet titreġġa' lura;

(b) meta mandat biex titreġġa' lura jkun gie maħruġ skond l-artikolu 21 ta' dan l-Att iż-żmien ta' xahar li jibda jgħodd fil-jum li fih dak il-mandat ikun gie maħruġ,

tkun tista' titlob b'rikors lill-Qorti ta' l-Appell Kriminali, bħalla qorti ta' appell minn deċiżjonijiet tal-Qorti tal-Pulizija Gudizzjarja, li tiġi liberata.

(2) Jekk fuq talba bħal dik il-Qorti tkun sodisfatta li jkun ingħata avviz xieraq tat-talba proposta lill-Ministru, il-Qorti tista', kemm-il darba ma jkunx muri li hemm raġuni biżżejjed fis-sens kuntrarju, b'ordni iġġieghel li r-rikorrent jiġi liberat mill-kustodja, u, jekk mandat biex jitreġġa' lura jkun gie maħruġ skond l-imsemmi artikolu 21, tħassar dak il-mandat.

TAQSIMA V

Kif jiġu trattati persuni li jitreġġu lura Malta

Restrizzjonijiet dwar proċeduri f'Malta għal reati ohra.

25. (1) Dan l-artikolu japplika għal kull persuna akkużata jew misjuba hatja ta' reat skond il-liġi ta' Malta li titreġġu lura Malta minn xi pajjiż tal-*Commonwealth* speċifikat jew minn xi pajjiż barrani speċifikat skond xi liġi ta' dak il-pajjiż li tikkorrispondi għal dan l-Att.

(2) Ma ghandu jsir xejn f'Malta dwar persuna li għaliha japplika dan l-artikolu, matul iż-żmien imsemmi fis-subartikolu (3) ta' dan l-artikolu, għal jew dwar xi reat magħmul minnha qabel ma treggħet lura Malta hliet dwar —

- (a) ir-reat li dwaru hi tkun treggħet lura;
- (b) xi reat anqas gravi ippruvat mill-fatti li ġew ippruvati biex jiġi żgurat it-treggħieġ lura tagħha; jew
- (c) xi reat ieħor li dwaru il-pajjiż li minnu tkun giet imreggħa lura jagħti l-kunsens tiegħu li tittiehed azzjoni kontra dik il-persuna.

(3) Iż-żmien imsemmi fis-subartikolu (2) ta' dan l-artikolu dwar persuna li għaliha japplika dan l-artikolu huwa iż-żmien li jibda bid-data tal-wasla tagħha f'Malta meta tkun treggħet lura kif imsemmi fis-subartikolu (1) ta' dan l-artikolu u li jispiċċa hamsa u erbgħin jum mill-ghada li hi kellha l-opportunità li titlaq minn Malta.

(4) Id-disposizzjonijiet ta' l-artikolu 535 tal-Kodiċi Kriminali ma għandhomx japplikaw dwar persuna li għaliha japplika dan l-artikolu jekk il-bidu jew it-tkomplija tal-proċeduri kriminali kontra ha ma jkunux jistgħu jsiru minhabba t-thaddim tad-disposizzjonijiet ta' qabel ta' dan l-artikolu.

26. (1) Dan l-artikolu japplika għal kull persuna akkużata b'reat taħt il-liġi ta' Malta li titreggħa lura f'Malta kif imsemmi fis-subartikolu (1) tal-artikolu 25 ta' dan l-Att.

Treggħieġ lura ta' persuni mhux proċessati jew liberati.

(2) Jekk, fil-każ ta' persuna li għaliha japplika dan l-artikolu, jew —

(a) proċeduri kontra għar-reat li minhabba fih hi giet imreggħa lura jew għal xi reat li dwaru tista' tittiehed azzjoni kontra tagħha skond il-paragrafu (b) jew (c) tas-subartikolu (2) tal-artikolu 25 ta' dan l-Att ma jinbdewx fi żmien tliet xhur li jibdew fil-jum tal-wasla tagħha f'Malta meta treggħet lura; jew

(b) wara li tiġi proċessata għal dak ir-reat, ma tinstabx haġġa, jew tiġi liberata għal kollox jew taħt kondizzjoni skond id-disposizzjonijiet ta' l-Att ta' l-1957 dwar il-*Probation* ta' Haġġin il-Ministru jista', jekk jidhirlu xieraq, fuq it-talba ta' dik il-persuna, jagħmel arrangamenti biex hi tintbagħat lura mingħajr hila u bl-inqas dewmien possibbli lejn il-pajjiż li minnu treggħet lura.

TAQSIMA VI

Mixxellanji

27. Kull dokument li għandu jingiebu dwar talba għat-treggħieġ lura ta' persuna skond id-disposizzjonijiet ta' dan l-Att għandu jkun jew bil-Malti jew bl-Ingliż u, meta xi dokument bħal dak ma jkun bl-ebda wieħed minn dawn l-ilsna, il-Ministru jista' jitlob li d-dokument jiġi maqlub għall-Ingliż.

Ilsien tad-dokumenti.

28. Il-Ministru jista' b'regolamenti jippreskrivi l-forma ta' kull mandat jew ordni li għandu jiġi maħruġ jew magħmul skond id-disposizzjonijiet ta' dan l-Att.

Regolamenti.

Garr ta' prigionieri għal jew minn pajjiżi oħra u eżekuzzjoni ta' pjeni barranin.

29. (1) Meta jkun sar arrangament ma' xi pajjiż dwar il-garr ta' persuna li tkun qed tiskonta sentenza ta' prigionerija f'Malta jew f'xi pajjiż ieħor bħal dak, minn jew għal Malta jew minn jew għal dak il-pajjiż l-ieħor, jew xort'oħra dwar l-eżekuzzjoni f'pajjiż wiehed ta' xi piena imposta jew mogħtija f'pajjiż ieħor, il-Ministru jista' jagħmel ordni biex jagħti seħħ lil dak l-arrangament, b'dawk l-eċċezzjonijiet, modifiki u kwalifiki li jsiru fl-ordni jew f'xi ordni ieħor wara, u kull ordni bħal dak jista' jkun fih dik id-disposizzjoni li l-Ministru jidhirlu xierqa fiċ-ċirkostanzi, magħduda l-applikazzjoni, b'kull modifiki xierqa, ta' kull waħda mid-disposizzjonijiet ta' dan l-Att jew ta' xi legislazzjoni oħra.

(2) F'dan l-artikolu il-frazi "arrangament" għandha l-istess tifsir dwar il-ħwejjeġ imsemmija fis-subartikolu (1) ta' dan l-artikolu kif għandha fid-disposizzjonijiet l-oħra ta' dan l-Att dwar it-treġġiegh lura ta' kriminali mahrubin.

Thassir u riserva.
Kap. 20,
Kap. 33
Att Nru. XIII
ta' 1-1970.

30. (1) Bla ħsara għad-disposizzjoni tas-subartikoli li jaħbtu wara dan, l-Ordinanza dwar l-Estradizzjoni (Italja), l-Ordinanza dwar l-Estradizzjoni u l-Att ta' 1-1970 dwar l-Estradizzjoni (Pajjiżi tal-*Commonwealth*) u safejn huma parti mill-liġi ta' Malta l-Atti tal-Parlament tar-Renju Unit imsejja l-*Extradition Acts 1870 to 1932*, il-*Colonial Prisoners Removal Act, 1869*, u l-*Colonial Prisoners Removal Act, 1884*, huma b'dan imħassra.

(2) Kull proċeduri mibdija taħt jew skond id-disposizzjonijiet ta' xi waħda mill-liġijiet imħassra b'dan l-artikolu qabel il-bidu fis-seħħ ta' dan l-Att għandhom jitqiesu li nbdew kif imiss u għandhom ikomplu jitmexxew skond dawk id-disposizzjonijiet ħlief illi, fejn qed jidhlu b'dan l-Att xi disposizzjonijiet li jagħtu lill-persuna li tkun protezzjoni jew vantaġġ li l-liġi l-oħra ma kenitx tagħti jew li jagħtu lil dik il-persuna protezzjoni jew vantaġġ akbar minn dawk mogħtija bil-liġi ta' qabel, għandhom japplikaw dawk id-disposizzjonijiet ta' dan l-Att.

(3) Kull arrangament ma' stat barrani applikabbli għal Malta taħt id-disposizzjonijiet ta' l-*Extradition Acts 1870 to 1932* fil-gurnata li tiġi minnufih qabel id-data tat-thassir ta' l-imsemmija Atti għandu, minkejja t-thassir ta' dawk l-Atti, iżda bla ħsara għad-disposizzjonijiet l-oħra ta' dan l-Att, ikompli hekk japplika sakemm jiġi revokat.

SKEDA

Artikolu 5

1. Omiċidju volontarju
2. Omiċidju involontarju
3. Reat kontra l-liġi dwar l-abort
4. Offiża volontarja fuq il-persuna gravi
5. Assalt li jwassal għal offiża fuq il-persuna
6. Stupru vjolent
7. Serq ta' persuna
8. Kongunġiment karnali ma' mara kontra l-liġi
9. Attentat għall-pudur bil-vjolenza
10. Tressiq jew kummerċ ta' persuni taħt l-età jew nisa għal skopijiet immorali

11. Bigamija
12. Arrest, detenzjoni jew sekwestru kontra l-liġi, jew negozju ta' skjavi
13. Tnehhija kontra l-liġi ta' persuna f'pajjiż barrani jew sekwestru ta' persuna f'dak il-pajjiż
14. Serq, abbandun jew esposizzjoni ta' tfal
15. Korruzzjoni
16. Sperġur, korruzzjoni għall-fini ta' sperġur jew kospirazzjoni biex ma ssirx ġustizzja skond il-liġi
17. Hruq jew għoti ta' nar
18. Reat dwar flus foloz
19. Reat kontra l-liġi dwar il-falsifikazzjoni
20. Serq
21. Appropriazzjoni bla jedd, frodi dwar sigurtà, baratterija, abbuż ta' karta in bjank jew xort'ohra, qerq fil-kummerċ jew fl-industrija, frodi b'egħmil qarrieqi, każijiet ohra ta' qliegh b'qerq
22. Riċettazzjoni
23. Appropriazzjoni bla jedd jew użu hażin minn uffiċjal jew impjegat pubbliku
24. Rikatt, vjolenza kontra l-privat, eżazzjoni minn uffiċjal pubbliku ta' flus jew hwejjeġ ohra kontra l-liġi, estorsjoni
25. Reat kontra l-liġi dwar il-falliment jew il-liġi dwar il-kumpanniji
26. Hsara b'qerq jew voluntarjament lil proprjetà
27. Azzjonijiet magħmula bil-hsieb ta' perikolu lil vetturi, bastimenti jew inġenji ta' l-ajru
28. Reat kontra l-liġi dwar il-mediċini jew narkotiċi perikolużi
29. Piraterija
30. Rewwixta kontra l-awtorità ta' kaptan ta' bastiment jew ta' kmandant ta' inġenji ta' l-ajru

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 170 tal-24 ta' Mejju, 1978.



Skrivan tal-Kamra tad-Deputati



Speaker



I assent.

Anton Julliger
President

26 May, 1978

ACT No. XVIII of 1978

AN ACT to make provision for and with respect to the extradition, to and from other countries, of persons accused or convicted of offences, and for any matter connected therewith or incidental thereto.

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:—

PART I Preliminary

Short title and commencement.

1. (1) This Act may be cited as the Extradition Act, 1978.

(2) This Act shall come into force on such date as the Minister may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires —
“arrangement”, in relation to the return of fugitive criminals to or from any country, other than Malta, means any treaty, convention, agreement or understanding for that purpose between Malta and such other country or which applies to both such countries or of which both such countries are a party;

“country” includes any territory;

“designated Commonwealth country” has the meaning assigned to it by section 4 of this Act;

“designated foreign country” has the meaning assigned to it by section 6 of this Act;

“extraditable offence” has the meaning assigned to it by either section 5 or section 8 of this Act, as the case may require;

“fugitive criminal” means a person accused or convicted of an extraditable offence committed within the jurisdiction of any country other than Malta who is or is suspected of being

in Malta; and whenever that term occurs in relation to any such country, means a fugitive criminal accused or convicted of an extraditable offence committed within the jurisdiction of that country;

"Minister" means the Minister responsible for Justice;

"prison" has the meaning assigned to it by the Prisons Act, 1976; Act No. IX of 1976

"requesting country" means a country requesting the return under this Act of a fugitive criminal.

(2) For the purposes of this Act —

(a) a person convicted of an offence in his absence shall be treated as a person accused of that offence;

(b) an act or omission which constitutes an offence only against military law but not against the ordinary law of the land shall not be treated as an offence;

(c) every colony, dependency and constituent part of a country, and every vessel and every aircraft of or registered in that country, shall (except where expressly mentioned as distinct in this Act or otherwise expressly provided) be deemed to be within the jurisdiction of and to be part of such country.

PART II

Return of Offenders to Commonwealth Countries

3. Subject to the provisions of this Act, a person found in Malta who is accused of an extraditable offence in any designated Commonwealth country or who is alleged to be unlawfully at large after conviction of such an offence in any such country, may be arrested and returned to that country as provided by this Act. Persons liable to be returned.

4. (1) The Minister may by order designate for the purposes of section 3 of this Act any country for the time being mentioned in subsection (3) of section 29 of the Constitution of Malta, or any other country within the Commonwealth; and any country for the time being so designated is in this Act referred to as a designated Commonwealth country. Designated Commonwealth country.

(2) The Minister may by the same or any subsequent order direct that this Act shall have effect in relation to the return of persons to, or in relation to persons returned from, any designated Commonwealth country subject to such conditions, exceptions, adaptations or modifications as may be specified in the order.

(3) For the purposes of any order made under the foregoing provisions of this section, any territory for the external relations of which a Commonwealth country is responsible may be treated as part of that country or, if the Government of that country so requests, as a separate country.

5. (1) For the purposes of this Act an offence of which a person is accused or has been convicted in a designated Commonwealth country is an extraditable offence in respect of that country if — Extraditable offences in respect of designated Commonwealth countries.

(a) it is an offence which, however described in the law of

that country, falls within any of the descriptions set out in the Schedule to this Act, and is punishable under that law with imprisonment for a term of twelve months or any greater punishment; and

(b) the act or omission constituting the offence, or the equivalent act or omission, would constitute an offence against the law of Malta if it took place within Malta or, in the case of an extra-territorial offence, in corresponding circumstances outside Malta.

(2) In determining for the purposes of this section whether an offence against the law of a designated Commonwealth country falls within a description set out in the said Schedule any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence under the law shall be disregarded.

(3) The descriptions set out in the said Schedule include the offences therein described whether or not they are accompanied by any aggravating or mitigating circumstance, and include also in each case offences of complicity in any such offence or of attempting to commit any such offence within the meaning respectively of section 42 or 43 of the Criminal Code.

Cap. 12

(4) References in this section to the law of any country include references to the law of any part of that country.

PART III

Return of Offenders to other Foreign Countries

Persons liable
to be returned.

6. Subject to the provisions of this Act, a person found in Malta who is accused of an extraditable offence in any designated foreign country or who is alleged to be unlawfully at large after conviction of such offence in any such country, may be arrested and returned to that country as provided by this Act.

Designated
foreign
country.

7. (1) The Minister may by order designate for the purposes of section 6 of this Act any country with which an arrangement exists or has been made, whether before or after the commencement of this section, for the return to such country of any fugitive criminal; and any country for the time being so designated is in this Act referred to as a designated foreign country.

(2) The Minister may by the same or any subsequent order direct that this Act shall have effect in relation to the return of persons to, or in relation to persons returned from, any designated foreign country, subject to such conditions, exceptions, adaptations or modifications as may be specified in the order.

(3) Subject to the provisions of this Act, every such order shall either recite or embody the terms of the arrangement to which it refers or shall contain a reference to the publication thereof in the Gazette or to its presentation to the House of Representatives, and shall not remain in force for any longer period than the arrangement.

(4) Subsection (3) of this section shall not apply to any arrangement which is in force immediately before the commencement of this section.

8. (1) For the purposes of this Act, an offence of which a person is accused or has been convicted in a designated foreign country is an extraditable offence in respect of that country if —

Extraditable offences in respect of designated foreign countries.

(a) it is an offence in respect of which a fugitive criminal may be returned to that country in accordance with the arrangement and is punishable under that law with imprisonment for a term of twelve months or a greater punishment; and

(b) the act or omission constituting the offence or the equivalent act or omission, would constitute an offence against the law of Malta if it took place within Malta or, in the case of an extra-territorial offence, in corresponding circumstances outside Malta.

(2) In determining for the purposes of this section whether an offence falls within the requirements of paragraph (a) and (b) of subsection (1) of this section, the description of the offence shall not be regarded as material if the offences under the law of Malta and that of the requesting country are substantially of the same nature.

9. An order under section 7 of this Act shall not be made unless the arrangement to which the order is intended to refer —

Provisions of arrangements etc. for return.

(a) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year; and

(b) as in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

PART IV

Provisions applicable to return of Offenders to all Countries

10. (1) A person shall not be returned under this Act to any country, or committed to or kept in custody for the purposes of such return, if it appears to the Minister or to the court of committal —

General restrictions on return.

(a) that the offence of which that person is accused or was convicted is an offence of a political character; or

(b) that the request for his return (though purporting to be made on account of an extraditable offence) is in fact made for the purpose of prosecuting or punishing him on account of his race, place of origin, nationality, political opinions, colour or creed; or

(c) that he might, if returned, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, place of origin, nationality, political opinions, colour or creed.

(2) A person accused of an offence shall not be returned under this Act to any country, or committed to or kept in custody for the purposes of such return, if it appears as aforesaid that if charged with that offence in Malta he would be entitled to be acquitted under any rule of law relating to previous acquittal or conviction.

(3) A person shall not be returned under this Act to any country, or committed to or kept in custody for the purposes of such return, unless provision is made by the law of that country, or by an arrangement made with that country, for securing that he will not,

unless he has first been restored or had an opportunity of returning to Malta, be dealt with in that country for or in respect of any offence committed before his return under this Act other than —

(a) the offence in respect of which his return under this Act is requested;

(b) any lesser offence proved by the facts proved before the court of committal; or

(c) any other offence being an extraditable offence in respect of which the Minister may consent to his being so dealt with.

(4) Any such arrangement as is mentioned in subsection (3) of this section may be an arrangement made for the particular case or an arrangement of a more general nature; and for the purpose of that subsection a certificate issued by or under the authority of the Minister confirming the existence of an arrangement with any country and stating its terms shall be conclusive evidence of the matters contained in that certificate.

(5) For the purposes of this section, an offence against the life or person of a Head of State, or any related offence described in subsection (3) of section 5 of this Act, shall not necessarily be deemed to be an offence of a political character.

Powers of the
Minister with
respect to
return of
offenders.

11. (1) A person shall not be returned under this Act to any country, or committed to or kept in custody for the purposes of such return, if the Minister, in the exercise of any power conferred on or reserved by the Government in or in respect of any arrangement, has so directed.

(2) Without prejudice to the generality of the provision of subsection (1) of this section, the Minister may refuse to make an order under section 13 or section 21 of this Act in any of the following cases —

(a) where the request is for a person unlawfully at large after conviction and the punishment awarded is less than four months imprisonment;

(b) where according to the law of the requesting country the offence in respect of which the return is requested is subject to the death penalty and the requesting country has not given an assurance accepted as sufficient by the Minister that the death penalty will not be awarded or will, if awarded, not be carried out;

(c) where the request is for the return of a person convicted of an offence in his absence and the requesting country has not given an assurance accepted as sufficient by the Minister that such person will be granted a new trial if he so requests;

(d) if prosecution for the offence in respect of which extradition is requested is barred by prescription either according to the law of Malta or according to the law of the requesting country;

(e) where the request is for a person who is in Malta having been returned thereto as mentioned in subsection (1) of section 25 of this Act and the Government is under an obligation not to return such a person to another country;

(f) if any amnesty has been granted in respect of the offence for which the return is requested and the courts of Malta had jurisdiction to try that offence;

(g) if the person whose extradition is requested is a citizen of Malta.

12. A person who has been accused of some offence within Maltese jurisdiction, not being the offence for which his return is asked, or is undergoing sentence under any conviction in Malta, shall not be returned under this Act to any country, or committed to or kept in custody for the purpose of such return, until after he has been discharged whether by acquittal or on the expiration of his sentence or otherwise. Delay of return.

13. (1) Subject to the provisions of this Act relating to provisional warrants, a person shall not be dealt with under this Act except in pursuance of an order of the Minister (in this Act referred to as an authority to proceed) issued in pursuance of a request made in writing to a Minister by or on behalf of the Government of the designated Commonwealth country or of the designated foreign country in which the person to be returned is accused or was convicted. Authority to proceed.

(2) There shall be furnished with any request made for the purposes of this section on behalf of any country —

(a) in the case of a person accused of an offence, a warrant for his arrest issued in that country;

(b) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence in that country, and a statement of the amount if any of that sentence which has been served;

together, in each case, with —

(i) particulars of the person whose return is requested, including information sufficient to establish his identity and nationality;

(ii) particulars of the facts upon which and the law under which such person is accused or was convicted, the legal description of the offence and a copy of the relative enactments or (if this is not practicable) a statement of the relevant law; and

(iii) evidence sufficient to justify the issue of a warrant for his arrest under section 14 of this Act.

(3) On receipt of such a request, the Minister may issue an order to proceed unless it appears to him that an order for the return of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Act.

14. (1) A warrant for the arrest of a person accused of an extraditable offence, or alleged to be unlawfully at large after conviction of such an offence, may be issued by a Magistrate of Judicial Police — Arrest for purposes of committal.

(a) on the receipt of an authority to proceed; or

(b) without such authority, upon information that the said person is, or is believed to be, in or on his way to Malta;

and any warrant issued by virtue of paragraph (b) of this subsection is in this Act referred to as a provisional warrant.

(2) A warrant of arrest under this section may be issued upon such evidence as would, in the opinion of the magistrate, authorise the issue of a warrant for the arrest of a person accused of committing a corresponding offence or, as the case may be, of a person alleged to be unlawfully at large after conviction of an offence within the jurisdiction of the courts of criminal justice of Malta.

(3) Where a provisional warrant is issued under this section, the magistrate by whom it is issued shall forthwith give notice to the Minister, and transmit to him the information and evidence, or certified copies of the information and evidence, upon which it was issued; and the Minister may in any case, and shall if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, by order cancel the warrant and, if that person has been arrested thereunder, discharge him from custody.

(4) A warrant issued under this section shall be forthwith executed by a police officer.

(5) The provisions of sections 362, 363(1), 364, 366, 367 and 369 of the Criminal Code shall apply *mutatis mutandis* to a warrant of arrest and to a warrant of search issued for the purposes of this Act.

Proceedings
for committal.

15. (1) A person arrested in pursuance of a warrant under section 14 of this Act shall (unless previously discharged under subsection (3) of that section) be brought as soon as practicable and in any case not later than forty-eight hours from his arrest before the Court of Judicial Police for the Island of Malta as a court of criminal inquiry (in this Act referred to as the court of committal) which shall have for the purposes of proceedings under this section the same powers, as nearly as may be, including power to remand in custody or on bail, as the said court has when sitting as aforesaid.

(2) Where the person arrested is in custody by virtue of a provisional warrant and no authority to proceed has been received in respect of him, the court of committal may fix a reasonable period (of which the court shall give notice to the Minister) after which he will be discharged from custody unless such an authority has been received.

(3) Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after hearing any evidence tendered in support of the request for the return of that person or on behalf of that person, that the offence to which the authority relates is an extraditable offence and it is further satisfied —

(a) where the person is accused of the offence, that the evidence would be sufficient to warrant his trial for that offence if it had been committed within the jurisdiction of the Courts of Criminal Justice of Malta;

(b) where the person is alleged to be unlawfully at large after conviction of the offence, that he has been so convicted and appears to be so at large,

the Court shall, unless his committal is prohibited by any other provision of this Act, commit him to custody to await his return thereunder; but if the Court is not so satisfied or if the committal of that person is so prohibited, the Court shall discharge him from custody:

Provided that notwithstanding any order discharging him from custody such person shall remain in custody until the expiration of three working days from any such order and, where an appeal has been entered by the Attorney General, until the appeal is disposed of or abandoned, or the Attorney General consents to the release of such person.

16. Where a person is committed to custody under section 15 of this Act, the Court shall, besides informing him that he will not be returned until after the expiration of fifteen days from the date of its order of committal and that he may appeal to the Court of Criminal Appeal, also inform him that, if he thinks that any of the provisions of subsections (1) and (2) of section 10 of this Act has been contravened or that any provision of the Constitution of Malta is, has been or is likely to be contravened in relation to his person as to justify a reversal, annulment or modification of the Court's order of committal, he has the right to apply for redress in accordance with the provisions of section 47 of the said Constitution.

Duty of court of committal to inform person committed of his rights.

17. (1) Any person remanded or committed for custody under section 15 of this Act shall be committed to prison and shall be treated as a person awaiting trial.

Custody.

(2) Such person shall be deemed to be in legal custody from the moment that he is so remanded or committed until he is beyond the jurisdiction of the Courts of Criminal Justice of Malta.

18. (1) An appeal from an order committing a person to custody under section 15 of this Act shall be made by an application to the Court of Criminal Appeal, containing a demand for the reversal of the Court's order, and shall be filed in the Registry of the court of committal not later than four working days from the date of the said order.

Appeal by person committed to custody.

(2) The Registrar of the court of committal shall, not later than the first next working day, transmit the application, together with the records of the case, to the Registrar of the Court of Criminal Appeal, who shall, without delay, forward a copy of the application to the Attorney General.

(3) Notice of the day fixed for the hearing of the appeal shall be given by the Registrar of the Court of Criminal Appeal to the appellant and to the Attorney General:

Provided that, except with the consent of both the appellant and the Attorney General, such hearing shall not take place before the lapse of two working days after the said notice has been given.

(4) If the Court of Criminal Appeal reverses the decision of the Court of Judicial Police, the Court shall order that the appellant be discharged.

19. (1) Where the decision of the Court of Judicial Police is such that the return of the person requested cannot take place, the Court shall, within twenty-four hours, transmit to the Attorney General the records of the case together with a copy of its decision, and the Attorney General may, within three working days from the date of the receipt of such record, appeal to the Court of Criminal Appeal by an application, to be accompanied by the said record and

Appeal by Attorney General.

by a copy of the decision of the court of committal, filed in the Registry of the Court of Criminal Appeal. A copy of the application shall be served on the person whose return is requested.

(2) On any appeal under this section the provisions of subsection (3) of section 18 of this Act shall *mutatis mutandis* apply and if the Court of Criminal Appeal orders the committal to custody of the person whose return is requested such order shall be treated, for all purposes other than an appeal therefrom, as an order committing such person to custody.

Powers of Court of Criminal Appeal and of Constitutional Court.

20. On an appeal made to the Court of Criminal Appeal or on an application for redress to the Constitutional Court under section 47 of the Constitution of Malta, either of the said Courts may, without prejudice to any other jurisdiction, order the person committed to be discharged from custody if it appears to such Court that —

(a) by reason of the trivial nature of the offence of which he is accused or was convicted; or

(b) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be; or

(c) because the accusation against him is not made in good faith in the interests of justice, it would, having regard to all the circumstances, be unjust or oppressive to return him.

Order for return to requesting country.

21. (1) Where a person is committed to await his return and is not discharged by order of the Court of Criminal Appeal or of any other competent Court, the Minister may by warrant order him to be returned to the requesting country unless the return of that person is prohibited, or prohibited for the time being, by section 10 or by section 12 of this Act, or the Minister decides under this section or under section 11 of this Act to make no such order in his case.

(2) A person shall not be returned to any country under this Act —

(a) in any case, until the expiration of the period of fifteen days beginning with the day on which the order for his committal is made;

(b) if the person committed to custody is entitled to institute any proceedings, whether of appeal or otherwise, which may lead to the reversal, annulment or modification of the Court's order of committal, and there is established by law or there has been fixed by a Court's order or judgment a time-limit within which such proceedings are to be instituted, until the expiration of such time-limit;

(c) if any proceedings referred to in the last preceding paragraph have been instituted, until the conclusion of such proceedings:

Provided that the proceedings shall be deemed to have been concluded also if they have been withdrawn or abandoned.

(3) The Minister shall not make an order under this section in the case of any person, if it appears to the Minister, on the grounds mentioned in section 20 of this Act, that it would be unjust or oppressive to return that person or if he considers, on any such grounds as are mentioned in subsection (1) of section 10 of this Act, that the order ought not be made.

(4) The Minister may decide to make no order for the time being under this section for the return of a person committed by the Court in consequence of a request made by any country if another request for his return under this Act has been made by another country and it appears to the Minister, having regard to all the circumstances of the case and in particular —

- (a) the relative seriousness of the offence in question;
- (b) the date on which each such request was made; and
- (c) the nationality or citizenship of the person concerned and his ordinary residence,

that preference should be given to the other request.

(5) Notice of the issue of a warrant under this section shall forthwith be given to the person to be returned thereunder.

22. (1) In any proceedings under or for the purposes of this Act in respect of a person in custody thereunder — Evidence.

(a) a document, duly authenticated, which purports to set out evidence given on oath in the requesting country shall be admissible as evidence of the matters stated therein;

(b) a document, duly authenticated, which purports to have been received in evidence, or to be a copy of a document so received, in any proceeding in any such country shall be admissible as evidence;

(c) a document, duly authenticated, which certifies that a person was convicted on a date specified in the document of an offence against the law of, or of part of, any such country shall be admissible as evidence of the fact and date of the conviction.

(2) A document shall be deemed to be duly authenticated for the purpose of this section —

(a) in the case of a document purporting to set out evidence given as aforesaid, if the document purports to be certified by a judge or magistrate or officer in or of that country to be the original document containing or recording that testimony or a true copy of that original document;

(b) in the case of a document that purports to have been received in evidence as aforesaid or to be a copy of a document so received, if the document purports to be certified as aforesaid to have been, or to be a true copy of a document which has been, so received;

(c) in the case of a document which certifies that a person was convicted as aforesaid, if the document purports to be certified as aforesaid,

and in any such case the document is authenticated either by the oath of a witness or by the official seal of a Minister in or of the requesting country.

(3) It shall be lawful for the Commissioner of Police or for the Attorney General as the case may be, as well as for the person the return of whom is requested, to produce evidence before the Court of Criminal Appeal even though such evidence shall not have been produced before the court of committal.

(4) In this section, "oath" includes affirmation or declaration; and nothing in this section shall be construed as prejudicing the admission in evidence of any document which is admissible in evidence apart from this section.

Handing over
of property.

23. (1) The Minister may, through the Commissioner of Police, seize and hand over to the requesting country any property —

(a) which may be required as evidence in that country;

or

(b) which has been acquired as a result of the offence and which, at the time of the arrest of the person whose return is requested, is found in the possession of such person or is discovered subsequently.

(2) The property referred to in subsection (1) of this section may be handed over to the requesting country even if extradition, having been agreed to, cannot be carried out owing to the death or escape of the person whose return is requested.

(3) When the said property is liable to seizure or confiscation in Malta, the Minister may, in connection with proceedings that are pending or with proceedings about to be taken, temporarily retain such property or hand it over to the requesting country on condition that it be returned.

Discharge in
case of delay
in returning.

24. (1) If any person committed to await his return is in custody in Malta under this Act after the expiration of the following period, that is to say —

(a) in any case, the period of two months beginning with the first day on which, having regard to subsection (2) of section 21 of this Act, he could have been returned;

(b) where a warrant for his return has been issued under section 21 of this Act, the period of one month beginning with the day on which that warrant was issued, he may apply to the Court of Criminal Appeal, sitting as a court of appeal from judgments of the Court of Judicial Police, for his discharge.

(2) If upon any such application the Court is satisfied that reasonable notice of the proposed application has been given to the Minister, the Court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged from custody, and, if a warrant for his return has been issued under the said section 21, quash that warrant.

PART V

Treatment of Persons Returned to Malta

Restrictions
upon
proceedings in
Malta for
other offences.

25. (1) This section applies to any person accused or convicted of an offence under the law of Malta who is returned to Malta from any designated Commonwealth country or designated foreign country under any law of that country corresponding with this Act.

(2) A person to whom this section applies shall not, during the period described in subsection (3) of this section, be dealt with in Malta for or in respect of any offence committed before he was returned to Malta other than —

(a) the offence in respect of which he was returned;

(b) any lesser offence proved by the facts proved for the purposes of securing his return; or

(c) any other offence in respect of which the country from which he is returned may consent to his being dealt with.

(3) The period referred to in subsection (2) of this section in relation to a person to whom this section applies is the period beginning with the date of his arrival in Malta on his return as mentioned in subsection (1) of this section and ending forty-five days after the first subsequent day on which he had the opportunity to leave Malta.

(4) The provisions of section 535 of the Criminal Code shall not apply in relation to a person to whom this section applies if the institution or continuation of criminal proceedings against him is precluded by the operation of the foregoing provisions of this section.

26. (1) This section applies to any person accused of an offence under the law of Malta who is returned to Malta as mentioned in subsection (1) of section 25 of this Act. Restoration of persons not tried or acquitted.

(2) If, in the case of a person to whom this section applies, either —

(a) proceedings against him for the offence for which he was returned or for an offence for which he may be dealt with in accordance with paragraph (b) or (c) of subsection (2) of section 25 of this Act are not begun within the period of three months beginning with the day of his arrival in Malta on being returned; or

(b) on his trial for that offence, he is acquitted, or he is discharged absolutely or conditionally under the provisions of the Probation of Offenders Act, 1957.

the Minister may, if he thinks fit, on the request of that person, arrange for him to be sent back free of charge and with as little delay as possible to the country from which he was returned.

PART VI

Miscellaneous

27. Any document which is to be produced in connection with a request for the return of a person according to the provisions of this Act shall be in either the Maltese or the English language, and, when any such document is in neither of these languages, the Minister may ask for its translation into the English language. Language of documents.

28. The Minister may by regulations prescribe the form of any warrant or order to be issued or made under the provisions of this Act. Regulations.

29. (1) Where an arrangement has been made with any country with respect to the removal of a person serving a sentence of imprisonment in Malta or in any such other country, from or to Malta or such other country, or otherwise with respect to the enforcement in one country of any punishment imposed or awarded in another, the Minister may make an order to give effect to such an arrangement, subject to any exceptions, modifications and qualifications made in the order or in any subsequent order, and any such Removal of prisoners to and from other countries and enforcement of foreign punishments.

order may contain such provision as the Minister may deem appropriate in the circumstances, including the application, with any appropriate modifications, of any of the provisions of this Act or of any other enactment.

(2) In this section the term "arrangement" has the same meaning in relation to the matters mentioned in subsection (1) of this section as it has in other provisions of this Act in relation to the return of fugitive criminals.

Repeal and
saving.
Cap. 20, Cap. 33
Act No. XIII
of 1970.

30. (1) Saving the provisions of the next following subsections, the Extradition (Italy) Ordinance, the Extradition Ordinance and the Extradition (Commonwealth Countries) Act, 1970, and in so far as they are part of the law of Malta the Acts of the Parliament of the United Kingdom entitled the Extradition Acts 1870 to 1932, the Colonial Prisoners Removal Act, 1869, the Colonial Prisoners Removal Act, 1884, are hereby repealed.

(2) Any proceedings commenced under or in accordance with the provisions of any of the laws repealed by this section before the coming into force of this Act shall be deemed to have been properly commenced and shall continue to be governed by those provisions except that, where any provisions are introduced by this Act which afford to the person concerned a protection or an advantage which the former law did not afford or which afford to such person a greater protection or advantage than those afforded by the former law, such provisions of this Act shall apply.

(3) Any arrangement with a foreign state applicable to Malta under the provisions of the Extradition Acts 1870 to 1932 on the day immediately preceding the date of the repeal of the said Acts shall, notwithstanding the repeal of such Acts but subject to the other provisions of this Act, continue so to apply until it is revoked.

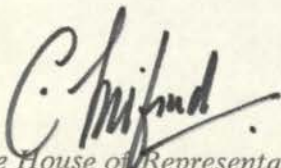
SCHEDULE

Section 5.

1. Wilful homicide
2. Involuntary homicide
3. An offence against the law relating to abortion
4. Wilful grievous bodily harm
5. Assault occasioning actual bodily harm
6. Rape (carnal knowledge with violence)
7. Abduction
8. Unlawful sexual intercourse with a female
9. Violent indecent assault
10. Procuring, or trafficking in, women or young persons for immoral purposes
11. Bigamy
12. Illegal arrest, detention or confinement, or dealing in slaves
13. Unlawful removal of persons to a foreign country or confinement therein
14. Kidnapping, abandoning or exposing a child
15. Bribery
16. Perjury or subornation of perjury or conspiring to defeat the course of justice

17. Arson or fire-raising
18. An offence concerning counterfeit currency
19. An offence against the law relating to forgery
20. Theft
21. Misappropriation, fraud relating to insurance, barratry, fraudulent breach of trust in respect of papers signed in blank or otherwise, commercial or industrial fraud, obtaining money or property by false pretences, other cases of fraudulent gain
22. Receiving stolen property or property which was misapplied or obtained by means of any offence, or knowingly taking part in the sale or disposal thereof
23. Embezzlement
24. Blackmail, private violence, unlawful exaction, extortion
25. An offence against bankruptcy law or company law
26. Malicious or wilful damage to property
27. Acts done with the intention of endangering vehicles, vessels or aircraft
28. An offence against the law relating to dangerous drugs or narcotics
29. Piracy
30. Revolt against the authority of the master of a ship or the commander of an aircraft

Passed by the House of Representatives at Sitting No. 170 of the 24th May, 1978.



Clerk to the House of Representatives



Speaker