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08. 10. 2024

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Jonathan Attard, M.P., Ministru għall-Gustizzja u r-Riforma tas-Settur tal-Kostruzzjoni, u moqri għall-Ewwel darba fis-Seduta tas-7 ta' Ottubru 2024.

ATT sabiex jemenda l-Att dwar l-Estradizzjoni, Kap. 276.

A BILL introduced by the Honourable Jonathan Attard, M.P., Minister for Justice and Reform of the Construction Sector, and read the First time at the Sitting of the 7th October 2024.

AN ACT to amend the Extradition Act, Cap. 276.

ELEANOR SCERRI
Skrivan tal-Kamra tad-Deputati

ELEANOR SCERRI
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT sabiex jemenda l-Att dwar l-Estradizzjoni, Kap. 276.

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

1. It-titolu ta' dan l-Att hu l-Att tal-2024 li jemenda l-Att dwar l-Estradizzjoni u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-Estradizzjoni, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor.

Kap. 276.

2. Is-subartikolu (5) tal-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 15 tal-Att prinċipali.

(a) minnufih qabel il-kliem "Meta l-persuna arrestata" għandhom jiġu miżjuda l-kliem li ġej "Meta persuna tkun tressqet quddiem il-qorti rimandanti kif provdut fis-subartikolu (1), il-qorti għandha tinforma lil tali persuna li tista' tagħti l-kunsens tagħha sabiex tiġi estradita u l-qorti għandha tispjega l-proċedura li tkun ser tapplika jekk tagħti l-kunsens tagħha.";

(b) il-kliem "li tkun trid titreggà lura dik il-qorti għandha, jekk tkun sodistatta li dik id-dikjarazzjoni tkun saret b' mod volontarju" għandhom jiġu sostitwiti bil-kliem "li tkun trid titreggà lura, il-qorti għandha twissi lil dik il-persuna bl-aktar mod ċar dwar il-konsegwenzi legali tad-dikjarazzjoni tagħha u wara li tagħtiha dak iż-żmien li l-qorti jidhrilha raġonevoli sabiex twieġeb, il-qorti għandha malli tkun sodisfatta mill-volontarjetà ta' dik id-dikjarazzjoni"; u

(ċ) il-kliem "taħt id-dispożizzjonijiet ta' dan is-subartikolu." għandhom jiġu sostitwiti bil-kliem "taħt id-dispożizzjonijiet ta' dan is-subartikolu:" u minnufih wara għandu

jiżdied il-proviso li ġej:

"Iżda:

(i) kull persuna li tkun qegħda tistenna l-estradizzjoni minn Malta fiż-żmien tad-dhul fis-seħħ ta' dan il-proviso wara li tkun iddikjarat li trid titreggà lura skont dan is-subartikolu tista', minkejja d-dispożizzjonijiet l-oħra ta' dan l-Att, fi żmien ħmistax (15)-il gurnata mid-data tad-dhul fis-seħħ ta' dan il-proviso tippreżenta rikors quddiem il-Qorti tal-Appell Kriminali sabiex titlob l-annullament tal-imsemmija dikjarazzjoni u sabiex titlob l-awtorizzazzjoni sabiex tithalla tikkontesta t-talba għall-estradizzjoni taht dan l-Att;

(ii) kif tiġi ppreżentata applikazzjoni fit-termini ta' dan il-proviso, it-termini kollha provduti f'dan l-Att u relatati mal-proċeduri partikolari ta' estradizzjoni għandhom jiġu sospiżi, sakemm il-qorti tiddetermina l-applikazzjoni u wara li l-Qorti tal-Appell Kriminali tilqa' t-talba dawk it-termini għandhom jibqgħu sospiżi sakemm l-atti tal-proċeduri jiġu riċevuti mill-qorti rimandanti;

(iii) il-Qorti tal-Appell Kriminali għandha tilqa' t-talba magħmula skont dan il-proviso u tordna li l-atti tal-proċeduri jintbagħtu lura lill-qorti rimandanti fi żmien tlett (3) ijiem sabiex ir-rikorrent jithalla jikkontesta t-talba għall-estradizzjoni.

(iv) meta l-Qorti tal-Appell Kriminali tilqa' talba ppreżentata skont dan il-proviso u sakemm l-atti tal-proċedura jiġu trażmessi lill-qorti rimandanti, id-dispożizzjonijiet ta' dan l-artikolu u kull terminu applikabbli għall-arrest ta' dik il-persuna jew għall-proċedura tal-estradizzjoni tagħha għandhom jiskattaw u jibdew jiddekorru mill-ġdid hekk kif l-atti tal-proċedura jiġu riċevuti mill-qorti rimandanti."

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huwa li jintroduċu s-salvagwardji għall-volontarjetà tal-kunsens għall-estradizzjoni fl-istadji inizjali tal-proċeduri ta' estradizzjoni sa livell komparabbli ma' dak diġa' garantit fi proċeduri ta' estradizzjoni li jsiru wara l-mandati ta' arrest Ewropew.

**A BILL
entitled**

An ACT to amend the Extradition Act, Cap. 276.

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

1. The title of this Act is the Extradition (Amendment) Act, 2024 and this Act shall be read and construed as one with the Extradition Act hereinafter referred to as the "principal Act". Short title.
Cap. 276.

2. Sub-article (5) of article 15 of the principal Act shall be amended as follows: Amends article
15 of the
principal Act.
 - (a) immediately before the words "Where the person arrested" there shall be added the following words "Where a person has been brought before a court of committal as provided in sub-article (1), the court shall inform such person that he may consent to being extradited and the court shall explain the procedure that shall apply if he gives his consent.";

 - (b) the words "that he is willing to be extradited, the court shall upon being satisfied of the voluntariness of such declaration shall" shall be substituted by the words "that he is willing to be extradited, the court shall clearly warn such person of the legal consequences of his declaration and, after allowing him such time as the court deems reasonable for him to reply, the court shall upon being satisfied of the voluntariness of such declaration"; and

 - (c) The words "under the provisions of this sub-article." shall be substituted by the words "under the provisions of this sub-article:" and immediately thereafter there shall be added the following proviso:

"Provided that:

(i) any person who is awaiting extradition from Malta at the time of the coming into force of this proviso after having declared that he is willing to be extradited according to this sub-article may, notwithstanding the other provisions of this Act, within fifteen (15) days from the date of the coming into force of this proviso file an application before the Court of Criminal Appeal to request the annulment of the said declaration and to request authorization to contest the request for extradition under this Act;

(ii) once an application is filed in terms of this proviso, all time limits provided for in this Act and relating to the particular extradition proceedings shall be suspended, until such time as the application is determined by the court, and after the Court of Criminal Appeal accedes to the request the said time limits shall remain suspended until the acts of the proceedings are received by the court of committal;

(iii) the Court of Criminal Appeal shall, accede to the request made in accordance with this proviso and order that the acts of the proceedings be remitted to the court of committal within three (3) days to permit the applicant to contest the request for extradition;

(iv) where the Court of Criminal Appeal grants a request filed in terms of this proviso and until the acts of the proceedings are transmitted to the court of committal, the provisions of this article and any time limits applicable in respect of such person's arrest or to the procedure for his extradition shall commence to apply and run anew as soon as the acts of the proceedings are received by the court of committal."

Objects and Reasons

The Objects and Reasons of this Bill are to introduce safeguards for the voluntariness of acceptance of extradition at the initial stages of extradition proceedings up to a level comparable to that already guaranteed in extradition proceedings undertaken further to European Arrest Warrants.

VERŻJONI ELETTRONIKA