71. Il-Kap tal-Oppożizzjoni l-Onor. Alex Borg u l-Whip tal-Oppożizzjoni l-Onor. Ivan Castillo jippproponu:

L-Ewwel Qari tal-Abbozz ta' Liġi msejjaħ "Att biex jimplimenta l-konklużjonijiet u r-rakkomondazzjonijiet ewlenin tal-Bord tal-Inkjesta Pubblika dwar l-assassinju ta' Daphne Caruana Galizia bil-għan li Malta jkollha iktar strutturi u għodda biex tiġi miġġielda l-kriminalità organizzata, l-abbuż tal-poter u l-korruzzjoni, sabiex id-dritt fundamentali għall-ġurnaliżmu ħieles, imparzjali u indipendenti jkun ankrat fil-Kostituzzjoni ta' Malta għall-ewwel darba, u sabiex il-ġurnalisti f'Malta jkollhom protezzjoni effettiva minn kawżi strateġiċi kontrihom miftuħa fi qrati f'pajjiżi terzi.

21.10.2026

PARLAMENT TA' MALTA

IL-ĦMISTAX-IL LEĠIŻLATURA (2026–)

ABBOZZ NRU. ___

ABBOZZ TA' LIĠI

msejjaħ

Att biex jimplimenta l-konklużjonijiet u r-rakkomandazzjonijiet ewlenin tal-Bord tal-Inkjesta Pubblika dwar l-assassinju ta' Daphne Caruana Galizia bil-għan li Malta jkollha iktar strutturi u għodda biex tiġi miġġielda l-kriminalità organizzata, l-abbuż tal-poter u l-korruzzjoni, sabiex id-dritt fundamentali għall-ġurnaliżmu ħieles, imparzjali u indipendenti jkun ankrat fil-Kostituzzjoni ta' Malta għall-ewwel darba, u sabiex il-ġurnalisti f'Malta jkollhom protezzjoni effettiva minn kawżi strateġiċi kontrihom miftuħa fi qrati f'pajjiżi terzi.

Imressaq mill-Onor. Dr Alex Borg MP
Kap tal-Oppożizzjoni
f'isem l-Oppożizzjoni (PN)

2026

ABBOZZ TA' LIĠI *msejjaħ* Att biex jimplimenta l-konklużjonijiet u r-rakkomandazzjonijiet ewlenin tal-Bord tal-Inkjesta Pubblika dwar l-assassinju ta' Daphne Caruana Galizia bil-għan li Malta jkollha iktar strutturi u għodda biex tiġi miġġielda l-kriminalità organizzata, l-abbuż tal-poter u l-korruzzjoni, sabiex id-dritt fundamentali għall-ġurnaliżmu ħieles, imparzjali u indipendenti jkun ankrat fil-Kostituzzjoni ta' Malta għall-ewwel darba, u sabiex il-ġurnalisti f'Malta jkollhom protezzjoni effettiva minn kawżi strateġiċi kontrihom miftuħa fi qrati f'pajjiżi terzi.

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

Arranġament tal-Att

Taqsima I - emenda għall-Kostituzzjoni ta' Malta sabiex telenka d-dmirijiet tal-Gvern fl-interess tal-ġid komuni.

Taqsima II - emenda għall-Kostituzzjoni ta' Malta sabiex din tipprovdi għad-dmirijiet ta' Gvern interim.

Taqsima III - emenda għall-Kodiċi Kriminali biex jipprovdi għall-ħolqien tar-reat tal-intralċ tal-ġustizzja.

Taqsima IV - emenda għall-Kodiċi Kriminali biex jipprovdi għall-ħolqien ta' reati minn uffiċjal pubbliku inkarigat bl-infurzar tal-liġi li dolożament jonqos minn dmiru.

Taqsima V - emenda għall-Kodiċi Kriminali sabiex jipprevedi l-ħolqien ta' reati ġodda ta' użu illegali ta' riżorsi elettroniċi mhux uffiċjali minn uffiċjali pubbliċi u impjegati.

Taqsima VI - emenda għall-Kodiċi Kriminali biex jipprovdi għall-ħolqien ta' reat ġdid kontra l-kriminalità organizzata billi jipprovdi għall-assoċjazzjoni kriminali ta' bixra mafjuża.

Taqsima VII - emenda għall-Att dwar il-Prevenzjoni tal-Ħasil tal-Flus biex jipprovdi għal Ordni ta' Ġid mhux Spjegat.

Taqsima VIII - emenda għall-Kodiċi Kriminali biex jipprovdi għall-ħolqien ta' reat ġdid għal min jabbuża mill-awtorità tal-uffiċċju tiegħu.

Taqsima IX - emenda għall-Kostituzzjoni ta' Malta biex tipprovdi għall-ogħla protezzjoni possibbli għad-dritt ta' ġurnaliżmu ħieles, indipendenti u imparzjali bħala wieħed mill-pilastri ewlenin tas-Saltna tad-Dritt.

Taqsima X - emenda għall-Att dwar il-Midja u l-Malafama u għall-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili biex tipprovdi għall-protezzjoni kontra kawżi strateġiċi kontra l-parteċipazzjoni pubblika (SLAPP).

Titolu qasir

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2026 li jemenda diversi liġijiet biex jimplimenta l-konklużjonijiet u r-rakkomandazzjonijiet ewlenin tal-Bord tal-Inkjesta Pubblika dwar l-assassinju ta' Daphne Caruana Galizia.

TAQSIMA I

Din it-Taqsima temenda l-Kostituzzjoni ta' Malta sabiex telenka d-dmirijiet tal-Gvern fl-interess tal-gid kommuni

Żieda tal-Artikolu ġdid 64B fil-Kostituzzjoni ta' Malta

2. L-Artikolu l-ġdid għandu jiżdied wara l-Artikolu 64 tal-liġi prinċipali kif ġej:

Artikolu 64B Bħala gwardjan tal-Istat tad-Dritt, kustodju tal-patrimonju tan-nazzjon u promotur tal-benesseri tas-soċjetà, għandu jkun id-dmir ta' kull Gvern li:

a) jaġixxi b'mod legali, speċjalment skont din il-Kostituzzjoni u t-trattati internazzjonali vinkolanti;

b) jaġixxi skont il-liġi, u b'kunsiderazzjoni xierqa għad-drittijiet taċ-ċittadini;

c) iżommu lura mill-arbitrarjetà;

d) josserva l-proċess dovut;

e) jaġixxi b'mod raġonevoli, inkluż billi jqis il-prattika tajba stabbilita;

f) jipprovdi servizz effiċjenti, effettiv u reattiv;

g) jieħu deċiżjonijiet raġonevoli b'mod oġġettiv;

h) jonfoq fondi pubbliċi b'attenzjoni u proprjetà;

i) jara li c-cittadin jieħu valor għat-taxxi li jħallas;

j) jipprovdi servizz miftuħ, aċċessibbli u responsabbli;

k) jaġixxi b'mod ġust u proporzjonat, mingħajr ebda diskriminazzjoni jew preġudizzju mhux xierqa u jiżguraw li ma jeżisti l'ebda kunflitt ta' interess;

l) jiżgura li d-deċiżjonijiet u l-azzjonijiet ikunu proporzjonati, xierqa u ġusti.

TAQSIMA II

Din it-Taqsima temenda l-Kostituzzjoni ta' Malta sabiex tipprovdi għad-dmirijiet ta' Gvern interim

Żieda ta' Artikolu ġdid 76A għall-Kostituzzjoni ta' Malta.

3. L-Artikolu l-ġdid li ġej għandu jiżdied wara l-Artikolu 76 tal-liġi prinċipali:

'Gvern temporanju 76A.

(1) Meta l-Parlament jiġi xolt skont l-Artikolu 76 ta' din il-Kostituzzjoni, għandu jinħoloq gvern interim.

(2) Ma għandha tittieħed l-ebda deċiżjoni li torbot Kabinett ġdid b'mod li tali Kabinett ġdid ma jkunx jista' jannulla tali miżura fil-perjodu interregnum bejn ixxoljiment tal-Parlament u l-formazzjoni ta' Kabinett ġdid.

(3) Meta jkun hemm bżonn li tittieħed deċiżjoni urġenti fl-imsemmi perjodu interregnum li jorbot lil Kabinett ġdid, il-Prim Ministru jieħu deċiżjoni bħal din biss jekk ikun fittex bil-miktub u kiseb bil-miktub l-approvazzjoni mingħajr kundizzjonijiet tal-Kap tal-Oppożizzjoni.

(4) Kemm it-talba tal-Prim Ministru kif ukoll il-qbil tal-Kap tal-Oppożizzjoni f'termini tas-subartikolu (3) ta' dan l-artikolu għandhom jiġu ppubblikati fil-Gazzetta tal-Gvern mhux aktar tard minn ġimgħa mid-data li fiha jingħata l-kunsens.

(5) Għall-finijiet ta' dan l-Artikolu, deċiżjoni li torbot Kabinett ġdid tirrikjedi li l-Gvern interim jevita li:

a) jagħmel leġiżlazzjoni sussidjarja;

b) jdaħħal fis-seħħ leġiżlazzjoni;

c) jimplimenta inizjattivi politiċi ewlenin;

d) jagħmel ħatriet; u

e) jidħol għal kuntratti maġġuri matul il-perjodu ta' kustodja.

(6) Matul il-perjodu ta' interregnum, l-ebda permessi, awtorizzazzjonijiet, liċenzji, konċessjonijiet, privileġġi, dispensi, amnestiji ġenerali jew speċifiċi, m'għandhom jingħataw minn kwalunkwe entità stabbilita bil-liġi. Lanqas ma għandha ssir xi allokazzjoni ta' art jew akkomodazzjoni tal-gvern.

(7) Permezz ta' Att tal-Parlament, il-Parlament jista' jipprovdi għat-twettiq aħjar tad-dispożizzjonijiet ta' dan l-Artikolu u jista' jirregola kwalunkwe kwistjoni anċillari jew inċidentali għalih jew meqjusa meħtieġa jew espedjenti għalih sabiex jiżgura li Gvern temporanju jikkonforma mad-dispożizzjonijiet ta' dan l-artikolu matul il-perjodu interregnum."

Emenda tal-Artikolu 66 tal-liġi prinċipali.

5. Il-kliem 'l-Artikoli 77 u 78," fil-paragrafu (b) tas-subartikolu (2) tal-Artikolu 66 tal-liġi prinċipali għandhom jiġu sostitwiti bil-kliem 'l-Artikoli 76A, 77 u 78. "

TAQSIMA III

Din it-Taqsima temenda l-Kodiċi Kriminali jipprovdi għall-ħolqien ta' reat tal-intralc tal-ġustizzja

Emendi tal-Kodiċi Kriminali

6. Immedjatament wara l-artikolu 111 tal-Kodiċi, għandhom jiżdiedu dawn iddispożizzjonijiet, kif ġej:

intralċ tal-ġustizzja 111A. (1) Iwettaq reat kull min jinstab ħati li offra jew wiegħed flus jew kull xorta ta' utli ieħor lil persuna msejħa sabiex tixhed quddiem awtorità ġudizzjarja jew lil persuna msejħa sabiex tagħti dikjarazzjoni lil difensur waqt attività investigattiva jew lil persuna msejħa biex tassisti bħala espert ġudizzjarju, konsulent tekniku jew interpretu, u dan sabiex dik il-persuna twettaq xi wieħed mir-reati maħsuba fis-Sub Titlu III tat-Tielet Titlu tat-Tieni Parti tal-Ewwel Ktieb tal-Kodiċi Kriminali;

(2) Il-piena għal ksur tas-subartikolu (1) meta l-offerta jew il-wegħda ma tiġix aċċettata hija ta' priġunerija ta' bejn sentejn u ħames snin;

(3) Il-piena għall-ksur tas-subartikolu (1) meta l-offerta jew il-wegħda tiġi aċċettata imma ma jitwettaqx wieħed mir-reati maħsuba fis-Sub Titlu III tat-Tielet Titlu tat-Tieni Parti tal-Ewwel Ktieb tal-Kodiċi Kriminali hija ta' bejn tliet snin u seba' snin priġunerija;

(4) Kull min juża theddid jew vjolenza sabiex iwassal għall-ksur tas-subartikolu jeħel il-piena applikabbli miżjuda bi grad jew tnejn skont il-gravità tat theddid jew vjolenza.

(5) Il-Qorti għandha, dwar kull min jinstab ħati ta' reat taħt dan l-Artikolu, flimkien mal-għoti tal-piena skont is-subartikoli preċedenti, tordna u timponi l-interdizzjoni ġenerali perpetwa uq min jisforza jew iwassal lil xi ħadd biex ma jiddikjarax xi ħaġa jew jiddikjara l-falz lill-awtorità ġudizzjarja.

111B. Salv jekk bl-istess aġir ma jitwettaqx reat ieħor aktar gravi, kull min bi vjolenza jew theddid, jew b'offerta jew wegħda ta' flus jew ta' kull xorta ta' utli ieħor, jisforza jew iwassal lil xi ħadd ieħor biex ma jiddikjarax xi ħaġa jew jiddikjara xi ħaġa falza quddiem awtorità ġudizzjarja fi proċedimenti kriminali meta dik il-persuna għandha d-dritt li tibqa' siekta u, jew id-dritt li ma tinkriminax ruħha, tkun ħatja ta' reat u meta tinstab ħatja tista' tingħata piena li ma tkunx anqas minn sentejn priġunerija u mhux aktar minn sitt snin priġunerija. '

TAQSIMA IV

Din it-Taqsima temenda l-Kodiċi Kriminali biex jiġi jipprovdi għall-ħolqien ta' reati minn uffiċjal pubbliku inkarigat bl-infurzar tal-liġi li dolozament jonqos minn dmiru

7. Immedjatament wara l-artikolu 138 tal-Kodiċi, għandhom jiżdiedu dawn id-dispożizzjonijiet, kif ġej: Rifjut jew omissjoni li jkun eżegwit dmir minn uffiċjali pubbliku.

138A. (1) Kull uffiċjal jew impjegat pubbliku li mingħajr raġuni xierqa jirrifjuta jew jonqos li jeżegwixxi dmir marbut mal-uffiċċju jew impjieg tiegħu, li jkun dmir li minħabba raġunijiet ta' ġustizzja jew sigurtà pubblika, jew ta' ordni pubbliku, għandu jitwettaq mingħajr dewmien, jehel il-piena stabbilita fis-subartikolu (2).

(2) Il-piena għal min jinstab ħati ta' ksur tas-subartikolu (1) hija waħda ta' priġunerija li tkun mhux anqas minn sitt xhur u mhux aktar minn sentejn.

138B. (1) Fil- każijiet li fihom ma japplikax l-artikolu 138A u mingħajr preġudizzju għas-subartikolu (2), l-uffiċjal jew impjegat pubbliku li, wara li jiġi notifikat b'talba bil-miktub minn kull min ikollu interess, ma jwettaqx id-dmir marbut mal-uffiċċju jew impjieg tiegħu fi żmien tletin jum minn dik in-notifika, jeħel il-piena stabbilita fis-subartikolu (3).

(2) L-uffiċjal jew impjegat pubbliku li b'mod raġonevoli jiġġustifika d-dewmien tiegħulil hin mit-tletin jum imsemmija fis-subartikolu (1), ma jkunx ħati ta' ksur ta' dan l-artikolu.

(3) Uffiċjal jew impjegat pubbliku li jinstab ħati ta' ksur ta' dan l-artikolu jeħel il-piena ta' priġunerija li ma tkunx aktar minn sena jew multa li ma tkunx aktar minn elf (€1,000) ewro jew dik il-priġunerija u multa flimkien. '

TAQSIMA V

Din it-Taqsima temenda l-Kodiċi Kriminali sabiex jipprevedi l-ħolqien ta' reati ġodda ta' użu illegali ta' riżorsi elettroniċi mhux uffiċjali minn uffiċjali pubbliċi u impjegati

8. Immedjatament wara l-Artikolu 118 tal-Kodiċi, għandu jiżdied dan li ġej: "Uzu illegali ta' riżorsi elettroniċi mhux uffiċjali minn uffiċjali pubbliċi u impjegati'

118A. (1) Kull uffiċjal jew impjegat pubbliku li jagħmel użu minn riżorsi elettroniċi mhux uffiċjali jew mhux awtorizzati għall-finijiet ta' twettiq ta' atti ta' tkomplija ta', jew fl-eżerċizzju ta', kwalunkwe uffiċċju pubbliku jew impjieg, sabiex

a) intenzjonalment jircievi ghalih personalment jew għal terzi persuni ohra vantagg patrimonjali jew monetarju ingust b'mod li b'tali agir illegali johloq dannu jew hsara jew pregudizzju għal terzi; jew

b) jikser id-dmir tiegħu li jhares l-interessi pekunjarji tal-erarju pubbliku u b'ħekk johloq dannu jew telf finanzjarju għall-erarju pubbliku, ikun hati ta'reat u ijkun soġġett għal piena ta' priġunerija għal perjodu minn sitt xhur sa sentejn;

(2) Id-dispożizzjonijiet tal-Artikolu 150 tal-Kodiċi għandhom ikunu applikabbli fil-każ ta' kundanna skont id-dispożizzjonijiet tas-subartikolu preċedenti;

(3) Għall-finijiet ta' din id-dispożizzjoni, 'riżorsi elettroniċi mhux uffiċjali jew mhux awtorizzati" tinkludi kull apparat elettroniku, mezz, strument, jew sistema li tippermetti messaġġi elettroniċi u telekomunikazzjoni li mhumiex awtorizzati minn xi awtorità pubblika għall-eżekuzzjoni ta' xi awtorità pubblika jew impjieg minn xi uffiċjal jew impjegat pubbliku;

TAQSIMA VI

Din it-taqsima temenda l-Kodiċi Kriminali sabiex jipprovdi għall-ħolqien ta' reat ġdid kontra l-kriminalità organizzata billi jipprovdi għall-assoċjazzjoni kriminali ta' bixra mafjuża

Emendi tal-Kodiċi Kriminali

9. Immedjatament wara l-Artikolu 83A tal-Kodiċi, għandhom jiżdiedu dawn iddispożizzjonijiet, kif ġej:

3. 'Artiklu 83B: Sħubija, promozzjoni, tmexxija ta 'assoċjazzjoni kriminali ta' bixra mafjuża.

(1) Kull min jagħmel parti minn assoċjazzjoni kriminali ta' bixra mafjuża magħmula minn tliet persuni jew iktar, jeħel, meta jinstab ħati, il-piena ta' priġunerija ta' bejn għaxar snin u ħmistax-il sena;

(2) Kull min jippromwovi, jmexxi, jorganizza assoċjazzjoni kriminali ta' bixra mafjuża, jeħel, għal dan il-fatt biss, il-piena ta' priġunerija minn tnax-il sena sa tmintax-il sena;

(3) F'kaz li l-assoċjazzjoni kriminali ta' bixra mafjuża hija armata b'armi regolari kif imfisser fl-artiklu 64 ta' dan il-Kodiċi jew materjal splussiv, il-piena ta' priġunerija f'każ ta' ħtija prevvist mis-subartiklu (1) ta' dan l-artiklu minn tnax-il sena sa għoxrin sena, u minn ħmistax-il sena sa ħamsa u għoxrin sena fil-każ previst taħt is-subartiklu (2) ta' dan l-Artikolu;

(4) Assoċjazzjoni kriminali tkun ta' bixra mafjuża meta l-membri tagħha jużaw is-setgħa tal-intimidazzjoni minn rabtiet ta' sħubija, l-istat ta' ħakma, u ta' segretezza li din trawwem, biex jitwettaq reat, biex jinkisbu kontroll dirett jew indirett fuq attivitajiet ekonomiċi, liċenzji, awtorizzazzjonijiet, kuntratti tal-akkwist pubbliku jew servizzi pubblici, jew biex jinkisbu qligħ jew vantaġġi għalihom jew għal ħaddieħor, jew biex jiġi evitat jew jitfixkel l-eżerċizzju liberu tal-vot, jew biex jinkisbu voti għalihom jew għal ħaddieħor fl-elezzjonijiet;

(5) L-assoċjazzjoni msemmija fis-subartiklu (1) ta' dan l-artiklu hija meqjusa armata meta l-membri tagħha għandhom aċċess dirett jew indirett għall-armi regolari kif imfisser fl-artiklu 64 ta' dan il-Kodiċi jew materjal splussiv biex jintlahaq l-ghan jew ghanijiet tal-assoċjazzjoni msemmija;

(6) Is-sħubija f'assoċjazzjoni bħal din hija minnha nnifisha reat punibbli anke jekk ma tkunx tista' tinkiseb rabta diretta bejn persuna mafjuża u l-eżekuzzjoni ta' xi reat imwettaq mill-membri tagħha f'isem l- assoċjazzjoni.

TAQSIMA VII

Din it-taqsima temenda l-Att dwar ir-Rikavat mill-Kriminalita (Kap.621) sabiex tipprovdi għall-liġi gdida għal Ordni ta' Ġid mhux spjegat Immwedjatament wara Parti III, tiżdied Parti IIIA gdida kif gej:

PARTI IIIA Ġid mhux spjegat

10. (1) Il-Qorti Kriminali tista', fuq talba mressqa mill-Avukat Ġenerali, toħroġ ordni ta' ġid mhux spjegat fir-rigward ta' kwalunkwe proprjetà jekk il-qorti tkun sodisfatta li kull wieħed mir-rekwiżiti għall-għoti tad-digriet ikun sodisfatt.

(2) Ir-rikors għal ordni għandu —

a) jispeċifika jew jiddeskrivi l-proprjetà li għaliha qed tintalab l-ordni, u

b) jispeċifika l-persuna (l-intimat) li l-Avukat Ġenerali jaħseb li għandha l-proprjetà msemmija fl-ordni. Il-persuna speċifikata tista' tkun persuna li qiegħda barra minn Malta;

11. Ordni ta' ġid mhux spjegat hija ordni li tirrikjedi li l-intimat jipprovdi dikjarazzjoni li tistabbilixxi n-natura u l-firxa tal-interess tieghu fil-proprjetà li fir-rigward tagħha tkun saret l-ordni,

b) li tispjega kif l-intimat kiseb il-proprjetà (inkluż, b'mod partikolari, kif ġew issodisfati kwalunkwe spejjeż fil-kisba tagħha),

c). meta l-proprjetà tkun miżmuma mill-fiduċjarji ta' trust, li jistabbilixxi d-dettalji tat-trust kif jista' jkun speċifikat fl-ordni. u

d) li jistabbilixxi tali informazzjoni oħra b'rabta mal-proprjetà kif jista' jiġi speċifikat b'dan il-mod.

4. L-ordni trid tispeċifika —

a) il-forma u l-mod kif għandha tingħata d-dikjarazzjoni,

b) il-persuna li lilha għandha tingħata, u

c) il-post fejn għandha tingħata jew, jekk għandha tingħata bil-miktub, l-indirizz fejn għandha tintbagħat;

5. L-ordni tista', b'rabta mal-ħtieġa li l-imtimat jipprovdi d-dikjarazzjoni msemmija fis-subartikolu (3), teħtieġ ukoll li huwa jipproduċi dokumenti ta' tip speċifikat jew deskritt fl-ordni;

6. L-intimat irid jikkonforma mar-rekwiżiti imposti minn ordni ta' ġid mhux ġustifikat fi kwalunkwe perjodu li l-Qorti tista' tispeċifika. Il-perijodu impost mill-Qorti għandu jirrifletti n-natura urġenti tal-ħtieġa li l-Qorti tasal għad-deċiżjoni tagħha dwar jekk l-iffriżar tal-proprjetà msemmija fl-ordni għandux jidħol fis-seħħ jew le;

Rekwiżiti biex isir ordni ta' ġid mhux spjegat.

12. (1) Dawn huma r-rekwiżiti għat-tfassil ta' ordni ta' ġid mhux spjegat fir-rigward ta' kwalunkwe proprjetà.

(2) Il-Qorti Kriminali għandha tkun sodisfatta li hemm raġuni valida biex wieħed jemmen li:

(a) l-intimat ikun is-sid tal-proprjetà, u

(b) il-valur tal-proprjetà huwa aktar minn mitt elf (€100,000) ewro.

(3) Il-Qorti Kriminali trid tkun sodisfatta li jkun hemm raġunijiet raġonevoli biex wieħed jissuspetta li s-sorsi magħrufa tad-dħul miksub b'mod legali tal-intimat ma kinux ikunu biżżejjed sabiex l-intimat ikun jista' jikseb il-proprjetà.

(4) Il-Qorti Kriminali għandha tkun sodisfatta li —

(a) l-intimat ikun persuna politikament esposta, jew

(b) ikun hemm bażi raġonevoli biex wieħed jissuspetta li —

(i) l-intimat huwa, jew kien, involut f'reat serju (kemm f'Malta kif ukoll f'xi mkien ieħor), jew

(ii) persuna konnessa mal-intimat hija, jew kienet, hekk involuta.

(5) Għall-finijiet ta' dan l-Artikolu, persuna tkun involuta f'reat serju jekk il-persuna tkun involute fi kwalunkwe attività kriminali li meta tiġi kkundannata jkollha piena minima ta' disa' snin ħabs;

(6) Dan ma japplikax għall-finijiet tas-sub-taqsima (2) (a) —

a) jekk hemmx jew le persuni oħra li wkoll għandhom sehem fil-proprjetà;

b) jekk il-proprjetà nkisbitx mill-intimat qabel jew wara d-dħul fis-seħħ ta' din it-taqsima.

(7) Għall-finijiet tas-sub-taqsima (3):

a) għandha titqies kwalunkwe ipoteka, imposta jew tip ieħor ta' garanzija li huwa raġonevoli li wieħed jassumi li kienet jew setgħet kienet disponibbli għall-intimat għall-finijiet tal-kisba tal-proprjetà;

b) għandu jiġi preżunt li l-intimat kiseb il-proprjetà għal prezz ekwivalenti għal valur tas-suq tiegħu;

c) id-dħul huwa "miksub legalment' jekk jinkiseb legalment skont il-liġijiet tal-pajjiż minn fejn joriġina d-dħul;

d) huma sorsi "maghrufa" ta' dhul dawk kollha li gejjin minn dhul finanzjarju (sew jekk minn impjieg sew jekk le) li jista' jiġi accertat b'mod ragjonevoli mill-informazzjoni disponibbli fil-mument li issir it-talba għall-Ordni;

e) meta l-proprjetà tkun interess fi proprjetà oħra inkluża fi trust, ir-referenza għall-intimat li jikseb il-proprjetà għandha tittieħed daqslikieku kienet referenza biex l-intimat jikseb sjieda diretta ta' tali sehem fil-proprjetà saldata kif tirrelata ma', jew tkun rappreżentata b'mod ġust minn, dak l-interess.

13. (1) Fis-subinciz (4) (a) tal-Artikolu 7. "persuna politikament esposta' tfisser individwu li —

a) huwa, jew kien, fdat b'funzjonijiet pubbliċi prominenti minn organizzazzjoni internazzjonali jew minn Malta jew minn kwalunkwe Stat ieħor;

b) membru tal-familja ta' individwu deskritt f'paragrafu (a),

c) magħruf li huwa assoċjat mill-qrib ma' individwu deskritt f'dak il-paragrafu, jew

d) b'xi mod ieħor konness ma' individwu deskritt f'dak il-paragrafu;

14. (2) L-Artikolu 3 tad-Direttiva (UE) 2015/849 tal-Parlament Ewropew u tal-Kunsill tat-20 ta' Mejju 2015 japplika għall-finijiet tad-determinazzjoni—

a) jekk persuna ġietx fdata b'funzjonijiet pubbliċi prominenti (ara l-punt (9) ta' dak l-Artikolu),

b) jekk persuna hijiex membru tal-familja (ara l-punt (10) ta' dak l-Artikolu), u

c) jekk persuna hijiex magħrufa bħala assoċjata mill-qrib ta' persuna oħra (ara lpunt (11) ta' dak l-Artikolu).

Effett tal-ordni: Każijiet ta' nuqqas ta' konformità.

15. (1) Meta l-intimat jonqos, mingħajr skuża raġonevoli, milli jikkonforma mar-rekwiżiti imposti minn ordni ta' proprjetà mhux spjegata fir-rigward ta' kwalunkwe proprjetà qabel tmiem il-perjodu ta' rispons, il-proprjetà għandha tiġi preżunta li hija proprjetà rekuperabbli għall-finijiet ta' kwalunkwe proċediment li jittieħed fir-rigward tal-proprjetà. sakemm ma jintweriex il-kuntrarju. Għall-finijiet tas-sub-taqsima (1) —

a) intimat li għandu l-intenzjoni li jikkonforma mar-rekwiżiti imposti minn ordni ta' ġid mhux ġustifikat ma għandux jitqies li naqas milli jikkonforma mal-ordni;

b) meta ordni ta' ġid mhux ġustifikat timponi aktar minn rekwiżit wieħed fuq l-intimat, l-intimat għandu jitqies li naqas milli jikkonforma mar-rekwiżiti imposti mill-ordni sakemm ma jkunx hemm konformità ma' kull wieħed mir-rekwiżiti jew sakemm ma jkunx maħsub li jkun hemm konformità magħhom.

Effett tal-ordni: Każijiet ta' konformità jew allegata konformità.

16 (1) Meta, qabel tmiem il-perjodu ta' tweġiba impost mill-Qorti, l-intimat jikkonforma, jew għandu l-intenzjoni li jikkonforma, mar-rekwiżiti imposti minn ordni ta' ġid mhux ġustifikat fir-rigward ta' kwalunkwe proprjetà li fir-rigward tagħha tkun saret l-ordni, l-Avukat Ġenerali jrid jiddetermina liema proċeduri ta' infurzar jew investigattivi, jekk ikun hemm, jitqiesu li ttieħdu fir-rigward tal-proprjetà fid-dawl ta' kwalunkwe ordni ta' ffriżar interim fis-seħħ fuq dik il-proprjetà;

(2) Id-determinazzjoni imsemmija fis-subartiklu (1) ta' dan l-artikolu għandha ssir f'perjodu massimu ta' 30 jum li jibda mill-jum tal-konformità;

(3) Jekk id-determinazzjoni skont is-subartiklu (2) hija li l-ebda proċedura ta' infurzar jew investigazzjoni ulterjuri ma għandha tittieħed fir-rigward tal-proprjetà, l-Avukat Ġenerali għandu jinnotifika lill-Qorti Kriminali dwar dak il-fatt malajr kemm jista' jkun raġonevolment prattikabbli (u fi kwalunkwe każ qabel it-tmiem tal-perijodu ta' tletin (30) jum imsemmi fis-subartiklu (2);

(4) Jekk ma jkun hemm l-ebda ordni ta' ffriżar interim b'rabta mal-proprjetà. l-Avukat Ġenerali jista' (fi kwalunkwe ħin) jiddetermina liema, jekk ikun hemm, proċedimenti ta' infurzar jew investigazzjoni li jqis li għandhom jittieħdu fir-rigward tal-proprjetà;

(5) Determinazzjoni skont is-subartikolu (3) ta' dan l-Artikolu li ma jittiħdux proċedimenti ta' infurzar jew investigazzjoni ulterjuri fir-rigward ta' kwalunkwe proprjetà ma timpedixxix li tali proċedimenti jittieħdu sussegwentement (kemm jekk bħala riżultat ta' informazzjoni ġdida jew mod ieħor) fir-rigward tal-proprjetà;

(6) Għall-finijiet ta' dan l-Artikolu —

a) l-intimat jikkonforma mar-rekwiżiti imposti minn ordni ta' ġid mhux ġustifikat biss jekk ikun hemm konformità mar-rekwiżiti kollha,

b) ir-referenzi għall-jum tal-konformità huma għall-jum li fih ir-rekwiżiti imposti mill-ordni jiġu ssodisfati (jew, jekk ir-rekwiżiti jiġu ssodisfati fuq aktar minn jum wieħed, l-aħħar waħda minn dawk il-ġranet), u

c) meta ordni tkun teħtieġ li tintbagħat informazzjoni bil-miktub lil, jew il-produzzjoni ta' dokumenti f'indirizz speċifikat fl-ordni, il-konformità mal-ordni (sa fejn tkun relatata ma' dak ir-rekwiżit) isseħħ meta tasal l-informazzjoni bil-miktub, jew meta d-dokumenti jiġu ppreżentati, f'dak l-indirizz, u fil-paragrafi (a) sa (ċ) ir-referenzi għall-konformità jinkludu l-allegata konformità.

Reat

17. (1) Persuna twettaq reat jekk, f'konformità allegata ma' rekwiżit impost minn ordni ta' ġid mhux ġustifikat, il-persuna —

a) tagħmel dikjarazzjoni li l-persuna taf li hija falza jew qarrieqa f'materjal partikolari, jew

b) tagħmel dikjarazzjoni bi traskuraġni li tkun falza jew qarrieqa f'materjal partikolari.

(2) Persuna ħatja ta' reat skont dan l-Artiklu teħel, wara kundanna, priġunerija għal perijodu ta' mhux aktar minn sentejn, jew multa ta' mhux aktar minn mitt elf (€100,000) ewro, jew dik il-priġunerija u multa flimkien;

Dikjarazzjonijiet

18. (1) Dikjarazzjoni magħmula minn persuna bi tweġiba għal rekwiżit impost minn ordni ta' ġid mhux ġustifikat ma tistax tintuża bħala evidenza kontra dik il-persuna fi proċedimenti kriminali.

Żamma ta' proprjetà: Trusts u arranġamenti tal-kumpanija eċċ

19. (1) Il-każijiet li fihom persuna għandha titqies li "zzomm" proprjetà jinkludu dawk fejn —

a) hija għandha kontroll effettiv fuq il-proprjetà;

b) hija l-fiduċjarju ta' tranżazzjoni li fiha hija kkostitwita l-proprjetà;

c) hija benefiċjarju (kemm attwali kif ukoll potenzjali) fir-rigward ta' tali trust.

(2) Persuna għandha titqies li għandha 'kontroll effettiv' fuq il-proprjetà jekk, mic-ċirkostanzi kollha, ikun raġonevoli li jiġi konkluż li l-persuna —

a) teżerċita,

b) hija kapaċi teżerċita, jew

c) hija intitolata li takkwista, kontroll dirett jew indirett fuq il-proprjetà.

(3) Referenzi għal persuna li jkollha jew tikseb proprjetà jinkludu kwalunkwe korp korporattiv, kemm jekk inkorporat jew iffurmat skont il-liġijiet ta' Malta jew f'pajjiż jew territorju barra minn Malta;

Supplimentari

20. Talba dwar ġid mhux spjegat tista' ssir mingħajr avviż.

21. Ordnijiet ta' ffriżar interim

(1) Meta l-Qorti Kriminali toħroġ ordni ta' proprjetà mhux spjegata fir-rigward ta' kwalunkwe proprjetà, hija tista' toħroġ ordni ta' ffriżar interim fir-rigward tal-proprjetà jekk il-qorti tqis li jkun meħtieġ li tagħmel dan għall-finijiet li jiġi evitat ir-riskju li kwalunkwe ordni ta' rkupru li tista' tinkiseb sussegwentement tiġi ffrustrata;

(2) Ordni ta' ffriżar interim hija ordni li tipprojbixxi lill-intimat għall-ordni ta' proprjetà mhux spjegata, u lil kwalunkwe persuna oħra b'interess fil-proprjetà, milli tittratta l-proprjetà b'xi mod;

(3) Ordni ta' ffriżar interim:

a) jista' jsir biss fuq talba bil-miktub tal-Avukat Ġenerali:

b) għandha ssir fl-istess proċedura bħal dik li fiha jsir l-ordni ta' ġid mhux ġustifikat, u

c) jista' jingħaqad f'dokument wieħed mal-ordni ta' ġid mhux ġustifikat.

Varjazzjoni u rilaxx ta' ordni ta' iffriżar interim

22. (1) Il-Qorti Kriminali tista' fi kwalunkwe ħin tvarja jew tirrilaxxa ordni ta' ffriżar interim.

(2) Il-Qorti Kriminali għandha toħroġ ordni ta' ffriżar interim, sa fejn ikollha effett fir-rigward ta' kwalunkwe proprjetà.f'każ fejn l-intimat jikkonforma, jew jallega li jikkonforma, mar-rekwiżiti imposti minn ordni ta' ġid mhux ġustifikat qabel tmiem il-perjodu ta' rispons, huwa l-perjodu ta' 48 siegħa li jibda mill-jum wara l-jum li fih il-perjodu ta' tletin (30) jum imsemmi fl-Artikolu 10(2) hawn fuq;

(3) Qabel ma teżerċita s-setgħa skont dan l-Artikolu biex tvarja jew tirrilaxxa ordni ta' iffriżar interim, il-Qorti trid (minbarra li tagħti lill-partijiet fil-proċedimenti l-opportunità li jinstemgħu) tagħti tali opportunità lil kwalunkwe persuna li tista' tiġi affettwata mid-deċiżjoni tagħha.

Esklużjonijiet

23. (1) Is-setgħa li tvarja ordni ta' iffriżar interim tinkludi (fost affarijiet oħra) is-setgħa li jsiru esklużjonijiet kif ġej

a) is-setgħa li l-proprjetà tiġi eskluża mill-ordni, u

b) is-setgħa, ħlief bl-esklużjoni tal-proprjetà mill-ordni, li jsiru esklużjonijiet millprojbizzjoni tat-trattament tal-proprjetà li għaliha tapplika l-ordni.(2) Esklużjonijiet mill-projbizzjoni tat-trattament tal-proprjetà li għaliha tapplika l- ordni (minbarra esklużjonijiet ta' proprjetà mill-ordni) jistgħu jsiru wkoll meta ssir lordni.

(3) Esklużjoni tista' (fost affarijiet oħra) tagħmel dispożizzjoni għall-iskop li tippermetti lil kwalunkwe persuna —

a) biex jitħallsu l-ispejjeż raġonevoli tal-għajxien tal-persuna, jew

b) li jwettaq kwalunkwe sengħa, negozju, professjoni jew okkupazzjoni.

(4) Esklużjoni tista' ssir soġġetta għal kundizzjonijiet.

(5) Meta l-Qorti teżerċita s-setgħa li tagħmel esklużjoni sabiex persuna tkun tista' tħallas l-ispejjeż legali li l-persuna tkun ġarrbet, jew li tista' ġġarrab, fir-rigward ta' proċedimenti skont dan l-Att. hija għandha tiżgura li l-esklużjoni —

a) hija limitata għal spejjeż legali raġonevoli li l-persuna ġarrbet b'mod raġonevoli jew raġonevolment iġġarrab,

b) tispeċifika l-ammont totali li jista' jiġi rilaxxat għal spejjeż legali skont lesklużjoni.

(6) Qabel ma teżerċita s-setgħa mogħtija minn din it-taqsima, il-Qorti għandha (minbarra li tagħti lill-partijiet għal kwalunkwe proċediment ikkonċernat l-opportunità li jinstemgħu) tagħti tali opportunità lil kwalunkwe persuna li tista' tiġi affettwata middeċiżjoni tal-Qorti.

Riċevituri b'rabta ma' ordnijiet ta' iffriżar interim

24. (1) Meta l-Qorti Kriminali toħroġ ordni ta' iffriżar interim fuq rikors mill-Avukat Generali, il-qorti tista', fuq talba bil-miktub tal-Avukat Ġenerali, taħtar riċevitur firrigward ta' kwalunkwe proprjetà li għaliha tapplika l-ordni ta' ffriżar interim.

(2) Applikazzjoni skont is-subartiklu (1) tista' ssir fl-istess ħin li ssir l-applikazzjoni għal ordni ta' ffriżar interim jew fi kwalunkwe ħin wara.

(3) Ir-rikors jista' jsir mingħajr avviż jekk iċ-ċirkustanzi tal-każ ikunu tali li n-notifika tar-rikors tippreġudika d-dritt tal-Avukat Ġenerali li jikseb ordni ta' rkupru fir-rigward ta' kwalunkwe proprjetà.

(4) Fl-applikazzjoni tiegħu, l-Avukat Ġenerali jrid jinnomina persuna kwalifikata kif xieraq biex tinħatar bħala riċevitur.Setgħat tar-riċevituri

25. (1) Jekk il-Qorti Kriminali taħtar riċevitur skont l-Artikolu 18 ta' dan l-Att fuq applikazzjoni mill-Avukat Ġenerali, il-Qorti tista' taġixxi skont dan l-artikolu fuq lapplikazzjoni tiegħu;

(2) Il-Qorti tista'. permezz ta' digriet, tawtorizza jew titlob lir-riċevitur jeżerċita kwalunkwe waħda mis-setgħat delineati mill-istess qorti fir-rigward ta' kwalunkwe proprjetà li fir-rigward tagħha jkun inħatar ir-riċevitur u jieħu kwalunkwe pass ieħor li l-qorti tqis xieraq b'rabta mal-ġestjoni ta' kwalunkwe proprjetà bħal din (inkluż liżgurar tad-detenzjoni, il-kustodja jew il-preservazzjoni tal-proprjetà sabiex jamministraha):

(3) Kwalunkwe projbizzjoni fuq it-trattament ta' proprjetà imposta minn ordni ta' ffriżar interim ma żżommx persuna milli tikkonforma ma' kwalunkwe rekwiżit impost bis-saħħa ta' dan l-Artikolu.

(4) Ir-riċevitur mhuwiex responsabbli għall-ebda persuna fir-rigward ta' kwalunkwe telf jew ħsara li jirriżultaw mit-trattament tal-proprjetà tar-riċevitur, sakemm dak it-telf jew ħsara ina jkunux ikkawżati min-negliġenza tar-riċevitur.

Superviżjoni tar-riċevitur u varjazzjonijiet

26. (1) Kwalunkwe persuna, mill-persuni li ġejjin, tista' fi kwalunkwe ħin titlob lillQorti Kriminali għal struzzjonijiet dwar l-eżerċizzju tal-funzjonijiet ta' riċevitur maħtur skont l-Artikolu 18:

a) ir-riċevitur:

b) parti fil-proċedimenti għall-ħatra tar-riċevitur jew l-ordni ta' ffriżar interim ikkonċernata;

c) persuna affettwata minn azzjoni meħuda mir-riċevitur;

d) persuna li tista' tiġi affettwata minn azzjoni proposta li tittieħed mir-riċevitur.

(2) Qabel ma tagħti struzzjonijiet skont is-subartikolu (1) il-qorti għandha tagħti lopportunità li tinstema' -

a) ir-riċevitur;

b) il-partijiet fil-proċedimenti għall-ħatra tar-riċevitur u għall-ordni ta' ffriżar interim ikkonċernata;

c) persuna li tista' tkun interessata fl-applikazzjoni skont is-subartikolu (1).

(3) Il-Qorti tista' fi kwalunkwe ħin tibdel jew tirtira l-ħatra ta' riċevitur skont l-Artikolu 18;

Kumpens

27. (1) Meta tinħareġ ordni ta' ffriżar interim fir-rigward ta' kwalunkwe proprjetà, il-persuna li lilha tappartjeni l-proprjetà tista' tressaq rikors quddiem il-Qorti Kriminali għall-ħlas ta' kumpens;

(2) L-applikazzjoni għandha ssir fi żmien tliet xhur li jibdew bl-għeluq tal-ordni ta' ffriżar interim.

(3) Il-Qorti tista' tordna l-ħlas ta' kumpens lir-rikorrent biss jekk tkun sodisfatta li —

a) ir-rikorrenti sofra dannu minħabba l-għoti tad-digriet ta' ffriżar provviżorju,

b) kien hemm nuqqas serju min-naħa tal-Avukat Ġenerali li kien applika għall-ordni, u

c) l-ordni ma kinitx issir li kieku ma seħħitx l-inadempjenza.

(4) Meta l-Qorti tordna l-ħlas ta' kumpens —

a) il-kumpens huwa pagabbli mill-Avukat Ġenerali. u

b) l-ammont tal-kumpens li għandu jitħallas huwa l-ammont li l-Qorti tqis raġonevoli, fid-dawl tat-telf imġarrab u kwalunkwe ċirkostanza rilevanti oħra;

Infurzar barra mill-pajjiż

28. (1) Jekk il-Qorti Kriminali tagħmel ordni ta' ġid mhux spjegat fir-rigward ta' kwalunkwe proprjetà, u

(a) jkun jidher li huwa meħtieġ li l-Avukat Ġenerali jiġi evitat ir-riskju li kwalunkwe ordni ta' rkupru li tista' tinkiseb sussegwentement tiġi frustrata, u

(a) l-Avukat Ġenerali jemmen li l-proprjetà tinsab f'pajjiż barra minn Malta (il-pajjiż riċeventi) Huwa jista' jibgħat talba għall-assistenza fir-rigward tal-proprjetà lill-Ministru talAffarijiet Barranin bil-għan li din tintbagħat skont dan l-Artikolu;(2) Il-Ministru tal-Affarijiet Barranin huwa obbligat jibgħat it-talba għall-assistenza lill-Gvern tal-pajjiż riċeventi minnufih;

(3) Talba għall-assistenza skont dan l-Artikolu hija talba lill-Gvern tal-pajjiż riċeventi:

(a) biex jiġi żgurat li kwalunkwe persuna tkun ipprojbita milli titrasferixxi l- proprjetà;

(b) għall-assistenza b'rabta mal-ġestjoni tal-proprjetà, inkluż biex tiġi żgurata ddetenzjoni, il-kustodja jew il-preservazzjoni tagħha; Infurzar barra mill-pajjiż: Riċevitur 29 (1) Jekk ordni ta' ffriżar interim ikollha effett fir-rigward tal-proprjetà, u r-riċevitur maħtur skont l-Artikolu 18 fir-rigward tal-proprjetà jemmen li din tinsab f'pajjiż barra minn Malta (il-pajjiż riċeventi), ir-riċevitur jista' jibgħat talba għall-assistenza firrigward tal-proprjetà lill-Ministru tal-Affarijiet Barranin bil-ħsieb li din tintbagħat skont dan l-Artikolu.

(2) Il-Ministru tal-Affarijiet Barranin irid jibgħat minnufih it-talba għall-assistenza lill-Gvern tal-pajjiż riċeventi.

(3) Talba għall-assistenza taħt din it-taqsima hija talba lill-Gvern tal-pajjiż riċeventi:(a) li jiġi żgurat li kwalunkwe persuna tkun ipprojbita milli tittratta l-proprjetà;

(b) għal assistenza b'rabta mal-ġestjoni tal-proprjetà, inkluż biex tiġi żgurata d-detenzjoni, l-kustodja jew il-preservazzjoni tagħha.

TAQSIMA VIII

Din it-taqsima temenda l-Kodiċi Kriminali biex jipprovdi għall-ħolqien ta' reat ġdid għal min jabbuza mill-awtorità tal-uffiċċju tiegħu

Emendi tal-Kodiċi Kriminali.

30. Immedjatament wara l-artikolu 127 tal-Kodiċi, għandu jiżdied dan l-artiklu gdid 127A, kif ġej:

4. '127A Abbuż tal-Awtorità Pubblika (1) "Sakemm ma jkunx jikkostitwixxi fatt iktar gravi, kull uffiċjal jew impjegat pubbliku li, fil-qadi tal-funzjonijiet tiegħu jew fl-ghoti ta' servizz, bi ksur ta 'xi regola specifika ta 'kondotta li tkun espressament stipulata mil-liġi jew minn att li għandu s-sahha ta 'liġi, liema liġi jew att ma jhallu ebda lok ta'diskrezzjoni fl-eżerċizzju ta 'dik il-funzjoni jew servizz:

(a) jonqos milli jastjeni fejn huwa personalment jew xi ħadd qarib tiegħu ikollu jew ikollhom kunflitt ta 'interess hekk kif stabbilit mil-liġi;

(b) intenzjonalment jircievi ghalih personalment jew għal terzi persuni ohra vantagg patrimonjali jew monetarju ingust b'mod li b'tali agir jew omisssjoni illegali johloq dannu jew hsara jew pregudizzju għal terzi; jew

(c) jabbuza mill-fiducja mistennija minnu billi jikser (anke jekk b'negligenza) id-dmir tiegħu li jhares l-interessi pekunjarji tal-erarju pubbliku u b'hekk johloq dannu jew telf finanzjarju għall-erarju pubbliku, jehel, meta jinstab hati, fil-kaz taht il-paragrafu (a) il-piena ta 'bejn sena u sentejn priġunerija, u fil-kaz taht il-paragrafi (b) u (c) il-piena ta 'bejn sentejn u hames snin priġunerija.

(2) Għall-fini tal-paragrafu (a) tas-subartikolu (1), il-kliem 'qarib tiegħu' jinkludu: in-nanniet tiegħu; il-genituri tiegħu; it-tfal u l-kugini tiegħu; il-mara jew ir-ragel f'kaz li jkunu mizzewgin skont l-Att dwar iz-Zwieg, skont il-kaz; persuna ohra li jkun f'ko-abitazzjoni maghha skont l-Att dwar il-Koabitazzjoni; jew persuna li jkun f'unjoni civili maghha skont l-Att dwar l-Unjonijiet Ċivili."

TAQSIMA IX

Din it-taqsima temenda l-Kostituzzjoni ta' Malta biex tipprovdi għall-ghola protezzjoni possibbli għad-dritt ta' ġurnaliżmu ħieles, indipendenti u imparzjali bħala wiehed mill-pillastri ewlenin tas-Saltna tad-Dritt

Emenda fl-artikoli 20A u 21 tal-liġi prinċipali u ż-żieda ta' artikolu 22 ġdid fil-liġi prinċipali

33. L-artiklu 20A għandu jkun rinumerat bħala Artiklu 21 u l-artiklu 21 għandu jkun rinumerat bħala artiklu 23, u artiklu 22 gdid għandu jiddahhal immedjatament wara l-artiklu 21 rinumerat kif gej:

"(1) L-Istat jirrikonoxxi l-istampa hielsa bħala pilastru ewlieni fid-demokrazija u l-irwol pre eminenti tagħha fi Stat fejn issaltan is-saltna tad-Dritt u għandu d-dmir imexxi 'l quddiem l-indipendenza tal-istampa u jissalvagwardja l-pluralizmu fil-media. L-Istat għandu obbligu pożittiv li jhares u jippromwovi l-libertà tal-istampa billi jipprovdi ambjent li jiffacilita l-ġurnaliżmu għal ġurnalisti u persuni ohra fil-media.

(2) L-Istat għandu jippromwovi parteċipazzjoni wiesgha fid-dibattitu pubbliku fuq kwistjonijiet ta' interess pubbliku u għandu jassigura li ġurnalisti, persuni ohra fil-media u membri tal-pubbliku ma jkunux skoraggieti, inkluz mill-biża ta' sanzjonijiet, retribuzzjoni jew forma ohra ta' ritaljazzjoni, milli jsemmaw u jesprimu l-opinjoni tagħhom fuq kwistjonijiet ta' interess pubbliku jew milli jesprimu gudizzji ta' kritika anke jekk il-verita ma tistax tkun pruvata.

(3) L-Istat jirrikonoxxi l-obbligu tal-istampa li twassal, b'mod konsistenti mal-obbligi u responsabbilitajiet tagħha bħala għassies pubbliku, taghrif u ideat fuq kull kwistjoni ta' interess pubbliku.

(4) L-Istat għandu jiffacilita l-aċċess u l-ghoti ta' informazzjoni veritiera u kredibbli moghtija mingħajr hela ta' żmien lil gurnalista u persuni ohra fil-media għall-uzu tagħha skond l-etika tal-ġurnaliżmu u l-principju ta' bona fede.

(5) Ebda ġurnalist ma jista' jiġi mgieghel jikxef l-identità tas-sorsi tiegħu u l-ġurnalisti huma intitolati jipprotegu s-sorsi tagħhom.

(6) L-Istat għandu jhares b'kull mod 'l ġurnalisti minn kawżi strateġiċi kontra parteċipazzjoni pubblika maghmula fi qrati barra minn Malta u f'Malta (SLAPP) u minn theddied ta' kawżi strateġiċi kontra parteċipazzjoni pubblika sew jekk mhedda li jiġu istitwieti fi qrati barra minn Malta u f'Malta (SLAPP).

Emendi fl-artiklu 41 tal-liġi principali:

34. Artikolu 41 għandu jiġi emendat kif gej:

(i) Sub-artikolu (1) u (2) tal-artikolu 41 għandhom jiġu sostitwiti bis-segwenti sub-artikoli godda:

(1) Kullhadd għandu d-dritt għal-libertà ta' espressjoni. Ħadd ma għandu jiġi mfixkel fit-tgawdija tal-libertà tiegħu ta' espressjoni, maghduda libertà li jkollu fehmiet mingħajr indhil, libertà li jirċievi idejat u tagħrif mingħajr indħil, libertà li jikkomunika idejiet u tagħrif mingħajr indħil (kemm jekk il-komunikazzjoni tkun lill-pubbliku in ġenerali jew lil xi persuna jew klassi ta' persuni) u libertà minn indħil dwar il-korispondenza tiegħu. Dawn il-libertajiet huma rikonoxxuti u għandhom jitgawdew bħala wahda mill-kondizzjonijiet ewlenin għall-progress ta' soċjetà demokratika u għall-izvilupp ta' kull individwu.

(2) L-eżerċizzju ta' dawn il-libertajiet, billi jġib miegħu dmirijiet u responsabbiltajiet, jista' jkun suġġett għal dawk il-formalitajiet, kundizzjonijiet, restrizzjonijiet jew penali kif preskritti b'liġi u li jkunu meħtieġa f'soċjetà demokratika, fl-interessi tas-sigurtà nazzjonali, integrità territorjali jew sigurtà pubblika, biex jiġi evitat id-diżordni jew l-eġħmil ta' delitti, għall-protezzjoni tas-saħħa jew tal-morali, għall-protezzjoni tar-reputazzjoni jew drittijiet ta' ħaddieħor, biex jiġi evitat il-kxif ta'informazzjoni riċevuta b'sigriet, jew biex tiġi miżmuma l-awtorità u l-imparzjalità tal-ġudikatura.

(3) Id-dritt ta' kullhadd għal ġurnaliżmu ħieles u indipendenti għandu jiġi protett.

Minghajr pregudizzju ghas-subartikolu precedenti, b'rikonoxximent tar-rwol tali stampa bħala pilastru ta' soċjetà demokratika, ma għandu jkun hemm l-ebda indhil minn awtorità pubblika fl-eżerċizzju tal-libertà ta' espressjoni mill-ġurnalisti u persuni ohra fil-media, hlief fejn ikun hemm htiega socjali gravi u urgenti.

(4) Awtoritajiet pubblici għandhom jiffacilitaw l-aċċess għall-informazzjoni għall-istampa u għandhom jipprovdu informazzjoni veritiera u kredibbli moghtija mingħajr hela ta' żmien skond l-obbligi ta' trasparenza u kontabbiltà tal-Istat.

(5) Il-protezzjoni ta' sorsi tal-ġurnalisti inkluz informazzjoni li tista' tiddentifika sors ta' ġurnalist hija garantita u ma tistax tiġi ristretta hlief bil-kundizzjonijiet imsemmija fis-subartikolu 2 ta' dan l-artikolu, hlief ukoll li l-kxif huwa meqjus necessarju f'soċjetà demokratika fejn jiġi stabbiliet b'mod konvincenti li:

i. ma jezistux mizuri alternattivi ragonevoli jew li dawn gew ezawrieti mill-persuni jew mill-awtoritajiet pubblici li qed ifittxu l-izvelar tas-sors, u

ii. l-interess legittimu fl-izvelar b'mod car huwa ta' importanza akbar mill-interess pubbliku li ma jsehhx dak l-izvelar u dan kemm-il darba dik il- htiega li tezorbita l-interess pubbliku tiġi pruvata, c-cirkustanzi huma sufficjalment vitali u ta' natura serja u l-htiega tal-izvelar hija identifikata bħala mehtiega minhabba htiega socjali urgenti.

(6) Kullhadd għandu d-dritt jara li l-Istat jwettaq id-dmirijiet u obbligi pożittivi tiegħu sabiex ikun promoss u zgurat l-ġurnaliżmu ħieles u indipendenti.

(ii) Sub artiklu (3) għandu jiġi rinumerat bħala sub artiklu (7).

F'sub-artiklu (7) kif rinumerat, l-kliem 'wiehed u ghoxrin' f'paragrafu (a) tal-proviso għandu jiġi sostitwiet bil-kelma 'tmintax'.

(iii) Sub artiklu (4) għandu jiġi rinumerat bħala sub artiklu (8).

(iv) Sub artiklu (5) għandu jiġi rinumerat bħala sub artiklu (9)

TAQSIMA X

Din it-taqsima temenda l-Att dwar il-Midja u l-Malafama sabiex tipprovdi għall-protezzjoni kontra kawżi strateġiċi kontra l-parteċipazzjoni pubblika ('SLAPP suits')

Emendi fl-Att dwar il-Midja u l-Malafama, Kapitolu 579 tal-Liġijiet ta' Malta

Klawżola 35. Emenda tal-Artiklu 5(4) tal-Att dwar il-Midja u l-Malafama

L-artikolu 5(4) għandha tiġi sostitwieta b'li gej: "(4) Fid-deċiżjoni dwar jekk kienx raġonevoli għall-konvenut li jemmen li l-pubblikazzjoni ta' dik id-dikjarazzjoni li dwarha jkun sar l-ilment kienet fl- interess pubbliku, il-Qorti għandha tippermetti għal:

(a) ġudizzju editorjali; u

(b) parteċipazzjoni f'dibattitu pubbliku fuq kwistjonijiet ta' interess pubbliku mingħajr biża ta' azzjoni legali."

Klawżola 36. Emenda tal-Artikolu 10 tal-Att dwar il-Midja u l-Malafama

Is-segwenti sub artikolu (4) gdid għandu jiġi mizdud immedjattament wara artikolu 10(3):

"(4) Il-Qorti għandha, fis-smigh preliminari jew fi kwalunkwe żmien qabel id-determinazzjoni finali tal-kawza, wara li tisma' lill-partijiet, tiddeciedi minn jeddha jew fuq talba mressqa mill-konvenut sabiex tichad it-talbiet fejn il-Qorti tikkunsidra li l-kaz x'aktarx ikollu effett li jbezza, jrazzan jew jiskoraggixxi il-parteċipazzjoni pubblika f'dibattitu fuq kwistjonijiet ta' interess pubbliku. '

Emendi fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kapitolu 12 tal-Liġijiet ta' Malta

Klawżola 37. Emenda tal-Artikolu 827(1)(c) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili

Art. 827 (I)(c) għandu jiġi emendat biex jaqra kif gej: "(c) jekk is-sentenza jkollha xi disponiment kuntrarju għall-ordni pubbliku jew kuntrarja għal-liġi pubblika interna ta' Malta;

Għall-finijiet ta' dan is-sub-artiklu, sentenza moghtija kontra persuna jew entita' normalment residenti jew domiciljata jew li topera gewwa Malta fuq kwistjoni ta' allegat malafama jew libell jew ingurja jew dwar delitt jew kwazi delitt naxxenti minn xi pubblikazzjoni kif definita fl-Att dwar Midja u Defamazzjoni (Kap. 579) tkun meqjusa kuntrarja għall-ordni pubbliku jew il-liġi pubblika interna ta' Malta fejn is-sentenza x'aktarx ikollha effett li tbezza, trazzan jew tiskoraggixxi l-parteċipazzjoni pubblika fid-dibattitu fuq kwistjonijiet ta' interess pubbliku. In-nuqqas tal-konvenut li jipprezenta difiza għal kaz mibdi quddiem qorti barranija ma tippregudikax din ir-regola ta' ordni pubbliku.

Klawżola 38. Emenda tal-Artikolu 827(2) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili

Wara l-kliem "għall-finijiet ta' dan l-artiklu' jiddahhlu l-kliem "u dan mingħajr pregudizzju għall-provvedimenti tal-Art. 827 (1}(c)"

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma sabiex il-Kostituzzjoni ta' Malta telenka d-dmirijiet l-iktar importanti tal-Gvern ta' Malta u dan sabiex isSaltna tad-Dritt tissahhah u jiġi imliggem l-abbuz minn min imexxi l-pajjiz; li jiġi żgurat li ladarba l-Parlament jiġi xolt u jinħoloq Gvern interim, is-setgħat u d-dmirijiet ta' Gvern temporanju jkunu limitati għal amministrazzjoni ordinarja u li ma tittieħed l-ebda deċiżjoni straordinarja mill-Gvern interim li torbot lil Kabinett futur b'miżuri li ma jistgħux jitwarrbu u li jiġi żgurat li l-gvern interimma jabbuzax mill-pozizzjoni tiegħu ghad-detriment tal-Oppożizzjoni sabiex elezzjonijiet generali jsiru b'mod gust u xieraq; jsir reat kull ghemil li sir bil-ghan li l-amministrazzjoni tal-Gustizzja tiġi imfixkla; jsir reat dak l-ghemil ta' uffiċjal jew impjegat pubbliku li jabdika dolozament mill-qadi ta' dmirijietu; -uzu illegali u mhux awtorizzat ta' rizorsi elettroniċi minn kwalunkwe uffigjal jew impjegat pubbliku bil-hsieb li issir hsara għall-erarju pubbliku jew għall-vantagg patrimonjali ingust jibda jitqies bħala reat kontra l-awtorità pubblika; kull shubija ta' assoċjazzjoni kriminali b'bixra mafjuża tkun meqjusa bħala delitt u għallewwel darba ged tinghata tifsira ta' tali assoċjazzjoni mafjuża; biex il-Qorti Kriminali jkollha s-setgha li tohrog Ordnijiet tal-Gid mhux Spjegat sabiex jiġi miggieled b'mod hafna aktar effettiv u effiéjenti r-reati tal-hasil tal-flus u 1korruzzjoni bil-ghan li tintemm -impunita iggenerata minn dawn ir-reati; li jkun meqjus delitt kriminali l-agir intenzjonali ta' dak l-uffiċjal jew impjegat pubbliku li b'abbuz mahsub tal-awtorità tiegħu jikkometti agir jew omissjoni bil-ghan li johloq vantagg ghalih jew għal terzi jew biex johloq pregudizzju jew hsara jew dannu lil terzi; id-dritt fondamentali għal ġurnaliżmu ħieles għandu jkun ankrat fil-Kostituzzjoni ta' Malta u -obbligi pożittivi tal-Istat favur ġurnaliżmu ħieles u indipendenti huma imnizzla għall-ewwel darba filKostituzzjoni ta' Malta; biex jipprotegi lil istampa, l-ġurnaliżmu u persuni ohra minn proceduri u kawżi migjuba kontra tagħhom u li għandhom [-effett li jiccensuraw, irazznu, jintimidaw u jwaqqfu l-libertà tal-espressjoni u 1parteċipazzjoni f'dibattitu dwar kwistjonijiet ta' interess pubbliku;

PARLIAMENT OF MALTA

THE FIFTEENTH LEGISLATURE (2026–)

BILL NO. ___

A BILL

entitled

An Act to implement the principal findings and recommendations of the Board of Public Inquiry into the assassination of Daphne Caruana Galizia, with the aim of equipping Malta with additional structures and tools to combat organised crime, abuse of power and corruption, to enshrine for the first time in the Constitution of Malta the fundamental right to free, impartial and independent journalism, and to afford journalists in Malta effective protection against strategic lawsuits brought against them before courts in third countries.

Presented by the Hon. Dr Alex Borg MP
Leader of the Opposition
on behalf of the Opposition (PN)

2026

A BILL *entitled* An Act to implement the principal findings and recommendations of the Board of Public Inquiry into the assassination of Daphne Caruana Galizia, with the aim of equipping Malta with additional structures and tools to combat organised crime, abuse of power and corruption, to enshrine for the first time in the Constitution of Malta the fundamental right to free, impartial and independent journalism, and to afford journalists in Malta effective protection against strategic lawsuits brought against them before courts in third countries.

THE PRESIDENT, by and with the advice and consent of the House of Representatives, assembled in this Parliament, and by the authority of the same, has enacted the following:–

Arrangement of the Act

Part I - amendment to the Constitution of Malta to set out the duties of the Government in the interests of the common good.

Part II - amendment to the Constitution of Malta to provide for the duties of a caretaker Government.

Part III - amendment to the Criminal Code to provide for the creation of the offence of obstruction of justice.

Part IV - amendment to the Criminal Code to provide for offences committed by a public officer responsible for law enforcement who wilfully fails to perform his duties.

Part V - amendment to the Criminal Code to provide for the creation of new offences relating to the unlawful use of unofficial electronic resources by public officers and employees.

Part VI - amendment to the Criminal Code to provide for the creation of a new offence against organised crime relating to criminal association of a mafia-type character.

Part VII - amendment to the Prevention of Money Laundering Act to provide for an Unexplained Wealth Order.

Part VIII - amendment to the Criminal Code to provide for the creation of a new offence concerning abuse of the authority of one's office.

Part IX - amendment to the Constitution of Malta to provide the highest possible protection for the right to free, independent and impartial journalism as one of the principal pillars of the rule of law.

Part X - amendment to the Media and Defamation Act and the Code of Organisation and Civil Procedure to provide protection against strategic lawsuits against public participation (SLAPP).

Short title

1. The short title of this Act is the Various Laws (Implementation of the Principal Findings and Recommendations of the Board of Public Inquiry into the Assassination of Daphne Caruana Galizia) (Amendment) Act, 2026.

PART I

This Part amends the Constitution of Malta to set out the duties of the Government in the interests of the common good

Addition of new article 64B to the Constitution of Malta

2. The following new article shall be added immediately after article 64 of the principal law:

Article 64B As guardian of the rule of law, custodian of the nation's heritage and promoter of the well-being of society, it shall be the duty of every Government to:

a) act lawfully, particularly in accordance with this Constitution and binding international treaties;

b) act in accordance with the law and with due regard to the rights of citizens;

c) refrain from arbitrariness;

d) observe due process;

e) act reasonably, including by taking account of established good practice;

f) provide an efficient, effective and responsive service;

g) take reasonable decisions objectively;

h) spend public funds with care and propriety;

i) ensure that citizens obtain value for the taxes they pay;

j) provide an open, accessible and accountable service;

k) act fairly and proportionately, without any improper discrimination or prejudice, and ensure that no conflict of interest exists;

l) ensure that decisions and actions are proportionate, appropriate and fair.

PART II

This Part amends the Constitution of Malta to provide for the duties of a caretaker Government

Addition of new article 76A to the Constitution of Malta.

3. The following new article shall be added immediately after article 76 of the principal law:

'Caretaker Government 76A.

(1) When Parliament is dissolved in accordance with article 76 of this Constitution, a caretaker Government shall be established.

(2) During the interregnum between the dissolution of Parliament and the formation of a new Cabinet, no decision shall be taken which binds a new Cabinet in such a manner that the new Cabinet cannot revoke the measure.

(3) Where an urgent decision which binds a new Cabinet needs to be taken during the said interregnum, the Prime Minister shall take such a decision only if he has sought in writing and obtained in writing the unconditional approval of the Leader of the Opposition.

(4) Both the Prime Minister's request and the Leader of the Opposition's agreement in terms of sub-article (3) of this article shall be published in the Government Gazette not later than one week from the date on which consent is given.

(5) For the purposes of this article, a decision which binds a new Cabinet requires the caretaker Government to refrain from:

a) making subsidiary legislation;

b) bringing legislation into force;

c) implementing major policy initiatives;

d) making appointments; and

e) entering into major contracts during the caretaker period.

(6) During the interregnum, no permits, authorisations, licences, concessions, privileges, dispensations, general or specific amnesties shall be granted by any entity established by law. Nor shall any allocation of Government land or accommodation be made.

(7) By Act of Parliament, Parliament may make provision for the better implementation of the provisions of this article and may regulate any matter ancillary or incidental thereto or

considered necessary or expedient for the purpose of ensuring that a caretaker Government complies with the provisions of this article during the interregnum."

Amendment of article 66 of the principal law.

5. The words 'articles 77 and 78,' in paragraph (b) of sub-article (2) of article 66 of the principal law shall be substituted by the words 'articles 76A, 77 and 78.'

PART III

This Part amends the Criminal Code to provide for the creation of the offence of obstruction of justice

Amendments to the Criminal Code

6. Immediately after article 111 of the Code, the following provisions shall be added:

Obstruction of justice 111A. (1) Any person who is found guilty of offering or promising money or any other benefit to a person summoned to testify before a judicial authority, or to a person summoned to make a statement to defence counsel during an investigative activity, or to a person summoned to assist as a judicial expert, technical consultant or interpreter, with the aim of inducing that person to commit any of the offences contemplated in Sub-title III of Title III of Part II of Book One of the Criminal Code, shall be guilty of an offence;

(2) The punishment for a breach of sub-article (1), where the offer or promise is not accepted, shall be imprisonment for a term of between two and five years;

(3) The punishment for a breach of sub-article (1), where the offer or promise is accepted but none of the offences contemplated in Sub-title III of Title III of Part II of Book One of the Criminal Code is committed, shall be imprisonment for a term of between three and seven years;

(4) Any person who uses threats or violence to bring about a breach of the sub-article shall be liable to the applicable punishment increased by one or two degrees according to the gravity of the threats or violence.

(5) The Court shall, in respect of any person found guilty of an offence under this article, in addition to imposing the punishment prescribed in the preceding sub-articles, order and impose perpetual general interdiction upon any person who compels or induces another person to refrain from making a statement or to make a false statement to a judicial authority.

111B. Without prejudice to any other more serious offence constituted by the same conduct, any person who, by violence or threats, or by offering or promising money or any other benefit, compels or induces another person to refrain from making a statement or to make a false statement before a judicial authority in criminal proceedings, where that person has the right to remain silent and, or, the right not to incriminate himself, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than two years and not more than six years.'

PART IV

This Part amends the Criminal Code to provide for the creation of offences committed by a public officer responsible for law enforcement who wilfully fails to perform his duties

7. Immediately after article 138 of the Code, the following provisions shall be added: Refusal or omission to perform a duty by a public officer.

138A. (1) Any public officer or employee who, without proper reason, refuses or fails to perform a duty connected with his office or employment, being a duty which, for reasons of justice, public safety or public order, must be performed without delay, shall be liable to the punishment prescribed in sub-article (2).

(2) The punishment for any person found guilty of a breach of sub-article (1) shall be imprisonment for a term of not less than six months and not more than two years.

138B. (1) In cases to which article 138A does not apply, and without prejudice to sub-article (2), any public officer or employee who, having been served with a written request by any interested person, fails to perform a duty connected with his office or employment within thirty days of such service shall be liable to the punishment prescribed in sub-article (3).

(2) A public officer or employee who reasonably justifies a delay beyond the thirty days referred to in sub-article (1) shall not be guilty of a breach of this article.

(3) A public officer or employee found guilty of a breach of this article shall be liable to imprisonment for a term not exceeding one year or to a fine (multa) not exceeding one thousand euro (€1,000), or to both such imprisonment and fine.'

PART V

This Part amends the Criminal Code to provide for the creation of new offences involving the unlawful use of unofficial electronic resources by public officers and employees

8. Immediately after article 118 of the Code, the following shall be added: "Unlawful use of unofficial electronic resources by public officers and employees'

118A. (1) Any public officer or employee who uses unofficial or unauthorised electronic resources for the purpose of performing acts in furtherance of, or in the exercise of, any public office or employment, in order to

a) intentionally obtain for himself or for other third parties an unjust patrimonial or monetary advantage, thereby causing damage, loss or prejudice to third parties through such unlawful conduct; or

b) breach his duty to protect the pecuniary interests of the public treasury, thereby causing damage or financial loss to the public treasury, shall be guilty of an offence and shall be liable to imprisonment for a term of six months to two years;

(2) The provisions of article 150 of the Code shall apply in the event of a conviction under the provisions of the preceding sub-article;

(3) For the purposes of this provision, 'unofficial or unauthorised electronic resources' includes any electronic device, means, instrument or system enabling electronic messaging and telecommunications which is not authorised by any public authority for the performance of any public office or employment by any public officer or employee;

PART VI

This Part amends the Criminal Code to provide for the creation of a new offence against organised crime relating to criminal association of a mafia-type character

Amendments to the Criminal Code

9. Immediately after article 83A of the Code, the following provisions shall be added:

3. 'Article 83B: Membership, promotion and direction of a criminal association of a mafia-type character.

(1) Any person who belongs to a criminal association of a mafia-type character consisting of three or more persons shall, on conviction, be liable to imprisonment for a term of between ten and fifteen years;

(2) Any person who promotes, directs or organises a criminal association of a mafia-type character shall, by reason of that fact alone, be liable to imprisonment for a term of between twelve and eighteen years;

(3) Where a criminal association of a mafia-type character is armed with ordinary weapons as defined in article 64 of this Code or with explosive material, the punishment of imprisonment, in the case contemplated in sub-article (1) of this article, shall be between twelve and twenty years, and, in the case contemplated in sub-article (2) of this article, between fifteen and twenty-five years;

(4) A criminal association shall be of a mafia-type character when its members use the power of intimidation arising from the bonds of membership and the resulting condition of domination and secrecy in order to commit an offence, to obtain direct or indirect control of economic activities, licences, authorisations, public procurement contracts or public services, to obtain profits or advantages for themselves or others, to prevent or obstruct the free exercise of the vote, or to obtain votes for themselves or others in elections;

(5) The association referred to in sub-article (1) of this article shall be deemed to be armed where its members have direct or indirect access to ordinary weapons as defined in article 64 of this Code, or to explosive material, for the purpose of achieving the aim or aims of that association;

(6) Membership of such an association shall itself constitute a punishable offence even where a direct link cannot be established between a mafia member and the commission of an offence perpetrated by its members on behalf of the association.

PART VII

This Part amends the Proceeds of Crime Act (Cap. 621) to provide for the new law on Unexplained Wealth Orders. Immediately after Part III, a new Part IIIA shall be added as follows:

PART IIIA Unexplained Wealth

10. (1) The Criminal Court may, on an application made by the Attorney General, make an unexplained wealth order in respect of any property if the Court is satisfied that each of the requirements for making the order has been met.

(2) An application for an order shall —

a) specify or describe the property in respect of which the order is sought, and

b) specify the person (the respondent) whom the Attorney General believes to hold the property specified in the order. The person specified may be a person who is outside Malta;

11. An unexplained wealth order is an order requiring the respondent to provide a statement setting out the nature and extent of his interest in the property in respect of which the order was made,

b) explaining how the respondent obtained the property (including, in particular, how any costs incurred in obtaining it were met),

c). where the property is held by the trustees of a trust, setting out such particulars of the trust as may be specified in the order, and

d) setting out such other information in connection with the property as may be so specified.

4. The order shall specify —

a) the form and manner in which the statement is to be given,

b) the person to whom it is to be given, and

c) the place where it is to be given or, where it is to be given in writing, the address to which it is to be sent;

5. In connection with the requirement for the respondent to provide the statement referred to in sub-article (3), the order may also require him to produce documents of a kind specified or described in the order;

6. The respondent shall comply with the requirements imposed by an unexplained wealth order within such period as the Court may specify. The period imposed by the Court shall reflect the urgent nature of the need for the Court to determine whether a freezing order in respect of the property specified in the order should take effect;

Requirements for making an unexplained wealth order.

12. (1) The following are the requirements for making an unexplained wealth order in respect of any property.

(2) The Criminal Court must be satisfied that there is good reason to believe that:

(a) the respondent holds the property, and

(b) the value of the property exceeds one hundred thousand euro (€100,000).

(3) The Criminal Court must be satisfied that there are reasonable grounds for suspecting that the known sources of the respondent's lawfully obtained income would have been insufficient to enable the respondent to obtain the property.

(4) The Criminal Court must be satisfied that —

(a) the respondent is a politically exposed person, or

(b) there are reasonable grounds for suspecting that —

(i) the respondent is, or has been, involved in serious crime (whether in Malta or elsewhere), or

(ii) a person connected with the respondent is, or has been, so involved.

(5) For the purposes of this article, a person is involved in serious crime if that person is involved in any criminal activity which, upon conviction, carries a minimum sentence of nine years' imprisonment;

(6) It is immaterial for the purposes of sub-article (2)(a) —

a) whether or not other persons also have an interest in the property;

b) whether the property was obtained by the respondent before or after the coming into force of this Part.

(7) For the purposes of sub-article (3):

a) account shall be taken of any mortgage, charge or other form of security which it is reasonable to assume was or may have been available to the respondent for the purpose of obtaining the property;

b) the respondent shall be presumed to have obtained the property for a price equivalent to its market value;

c) income is 'lawfully obtained' if it is obtained lawfully under the laws of the country from which the income originates;

d) 'known' sources of income are all sources of financial income (whether or not derived from employment) which can reasonably be ascertained from the information available at the time when the application for the order is made;

e) where the property is an interest in other property comprised in a trust, the reference to the respondent obtaining the property shall be construed as though it were a reference to the respondent obtaining direct ownership of such part of the underlying property as relates to, or is fairly represented by, that interest.

13. (1) In paragraph (4)(a) of article 7, 'politically exposed person' means an individual who —

a) is, or has been, entrusted with prominent public functions by an international organisation or by Malta or any other State;

b) is a family member of an individual described in paragraph (a),

c) is known to be a close associate of an individual described in that paragraph, or

d) is otherwise connected with an individual described in that paragraph;

14. (2) Article 3 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 applies for the purpose of determining —

a) whether a person has been entrusted with prominent public functions (see point (9) of that article),

b) whether a person is a family member (see point (10) of that article), and

c) whether a person is known to be a close associate of another person (see point (11) of that article).

Effect of an order: Cases of non-compliance.

15. (1) Where the respondent fails, without reasonable excuse, to comply with the requirements imposed by an unexplained wealth order in respect of any property before the end of the response period, the property shall be presumed to be recoverable property for the purposes of any proceedings taken in respect of the property, unless the contrary is shown. For the purposes of sub-article (1) —

a) a respondent who intends to comply with the requirements imposed by an unexplained wealth order shall not be regarded as having failed to comply with the order;

b) where an unexplained wealth order imposes more than one requirement on the respondent, the respondent shall be regarded as having failed to comply with the requirements imposed by the order unless each requirement is complied with or compliance with each requirement is intended.

Effect of an order: Cases of compliance or purported compliance.

16 (1) Where, before the end of the response period imposed by the Court, the respondent complies, or intends to comply, with the requirements imposed by an unexplained wealth order in respect of any property to which the order relates, the Attorney General shall determine which enforcement or investigative proceedings, if any, are considered to have been taken in respect of the property in the light of any interim freezing order in force in relation to that property;

(2) The determination referred to in sub-article (1) of this article shall be made within a maximum period of thirty days beginning on the day of compliance;

(3) If the determination under sub-article (2) is that no further enforcement or investigative proceedings should be taken in respect of the property, the Attorney General shall notify the Criminal Court of that fact as soon as reasonably practicable (and in any event before the expiry of the thirty (30) day period referred to in sub-article (2);

(4) If no interim freezing order is in force in relation to the property, the Attorney General may (at any time) determine which, if any, enforcement or investigative proceedings he considers should be taken in respect of the property;

(5) A determination under sub-article (3) of this article that no further enforcement or investigative proceedings should be taken in respect of any property shall not prevent such proceedings from being taken subsequently (whether as a result of new information or otherwise) in respect of that property;

(6) For the purposes of this article —

a) the respondent complies with the requirements imposed by an unexplained wealth order only where all the requirements are complied with,

b) references to the day of compliance are references to the day on which the requirements imposed by the order are satisfied (or, where they are satisfied on more than one day, the last of those days), and

c) where an order requires the sending of information in writing to, or the production of documents at, an address specified in the order, compliance with the order (in so far as it relates to that requirement) occurs when the written information is received, or the documents are produced, at that address, and in paragraphs (a) to (c) references to compliance include purported compliance.

Offence

17. (1) A person commits an offence if, in purported compliance with a requirement imposed by an unexplained wealth order, that person —

a) makes a statement which that person knows to be false or misleading in a material particular, or

b) recklessly makes a statement which is false or misleading in a material particular.

(2) A person guilty of an offence under this article shall be liable, on conviction, to imprisonment for a term not exceeding two years, or to a fine not exceeding one hundred thousand euro (€100,000), or to both such imprisonment and fine;

Statements

18. (1) A statement made by a person in response to a requirement imposed by an unexplained wealth order may not be used in evidence against that person in criminal proceedings.

Holding property: Trusts and corporate arrangements, etc.

19. (1) Cases in which a person is to be regarded as 'holding' property include those where —

a) that person has effective control over the property;

b) that person is the trustee of a trust in which the property is comprised;

c) that person is a beneficiary (whether actual or potential) in relation to such a trust.

(2) A person shall be regarded as having 'effective control' over property if, having regard to all the circumstances, it is reasonable to conclude that the person —

a) exercises,

b) is able to exercise, or

c) is entitled to acquire, direct or indirect control over the property.

(3) References to a person holding or obtaining property include any body corporate, whether incorporated or formed under the laws of Malta or in a country or territory outside Malta;

Supplementary

20. An application for an unexplained wealth order may be made without notice.

21. Interim freezing orders

(1) Where the Criminal Court makes an unexplained wealth order in respect of any property, it may make an interim freezing order in respect of that property if the Court considers it necessary to do so for the purpose of avoiding the risk of frustrating any recovery order which may subsequently be obtained;

(2) An interim freezing order is an order prohibiting the respondent to the unexplained wealth order, and any other person with an interest in the property, from dealing with the property in any manner;

(3) An interim freezing order:

a) may be made only on a written application by the Attorney General;

b) shall be made in the same proceedings as those in which the unexplained wealth order is made, and

c) may be combined in a single document with the unexplained wealth order.

Variation and discharge of an interim freezing order

22. (1) The Criminal Court may at any time vary or discharge an interim freezing order.

(2) The Criminal Court shall issue an interim freezing order, in so far as it has effect in respect of any property. In a case where the respondent complies, or purports to comply, with the requirements imposed by an unexplained wealth order before the end of the response period, it is the period of forty-eight hours beginning on the day after the day on which the thirty (30) day period referred to in article 10(2) above expires;

(3) Before exercising its power under this article to vary or discharge an interim freezing order, the Court shall (in addition to giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.

Exclusions

23. (1) The power to vary an interim freezing order includes, among other things, the power to make exclusions as follows:

a) the power to exclude property from the order, and

b) the power, otherwise than by excluding property from the order, to make exclusions from the prohibition on dealing with the property to which the order applies. (2) Exclusions from the prohibition on dealing with the property to which the order applies (other than exclusions of property from the order) may also be made when the order is made.

(3) An exclusion may, among other things, make provision for the purpose of enabling any person —

a) to meet that person's reasonable living expenses, or

b) to carry on any trade, business, profession or occupation.

(4) An exclusion may be made subject to conditions.

(5) Where the Court exercises the power to make an exclusion so as to enable a person to meet legal expenses incurred, or which may be incurred, by that person in connection with proceedings under this Act, it shall ensure that the exclusion —

a) is limited to reasonable legal expenses which that person has reasonably incurred or may reasonably incur,

b) specifies the total amount which may be released for legal expenses under the exclusion.

(6) Before exercising the power conferred by this article, the Court shall (in addition to giving the parties to any proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the Court's decision.

Receivers in connection with interim freezing orders

24. (1) Where the Criminal Court makes an interim freezing order on an application by the Attorney General, the Court may, on the written application of the Attorney General, appoint a receiver in respect of any property to which the interim freezing order applies.

(2) An application under sub-article (1) may be made at the same time as the application for an interim freezing order or at any time thereafter.

(3) The application may be made without notice if the circumstances of the case are such that giving notice of the application would prejudice the Attorney General's right to obtain a recovery order in respect of any property.

(4) In his application, the Attorney General shall nominate a suitably qualified person to be appointed as receiver. Powers of receivers

25. (1) If the Criminal Court appoints a receiver under article 18 of this Act on an application by the Attorney General, the Court may act under this article on his application;

(2) The Court may, by decree, authorise or require the receiver to exercise any of the powers specified by the Court in respect of any property for which the receiver has been appointed and to take any other steps which the Court considers appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property for the purpose of administering it):

(3) Any prohibition on dealing with property imposed by an interim freezing order shall not prevent a person from complying with any requirement imposed by virtue of this article.

(4) The receiver shall not be liable to any person in respect of any loss or damage resulting from the receiver's dealing with the property, unless that loss or damage was caused by the receiver's negligence.

Supervision of receivers and variations

26. (1) Any of the following persons may at any time apply to the Criminal Court for directions concerning the exercise of the functions of a receiver appointed under article 18:

a) the receiver;

b) a party to the proceedings for the appointment of the receiver or for the interim freezing order concerned;

c) a person affected by an action taken by the receiver;

d) a person who may be affected by an action which the receiver proposes to take.

(2) Before giving directions under sub-article (1), the Court shall give an opportunity to be heard to —

a) the receiver;

b) the parties to the proceedings for the appointment of the receiver and for the interim freezing order concerned;

c) any person who may have an interest in the application under sub-article (1).

(3) The Court may at any time vary or revoke the appointment of a receiver under article 18;

Compensation

27. (1) Where an interim freezing order is made in respect of any property, the person to whom the property belongs may apply to the Criminal Court for the payment of compensation;

(2) The application shall be made within three months beginning with the expiry of the interim freezing order.

(3) The Court may order compensation to be paid to the applicant only if it is satisfied that —

a) the applicant suffered loss as a result of the making of the interim freezing order,

b) there was a serious default on the part of the Attorney General who applied for the order, and

c) the order would not have been made had the default not occurred.

(4) Where the Court orders the payment of compensation —

a) the compensation shall be payable by the Attorney General, and

b) the amount of compensation payable shall be such amount as the Court considers reasonable, having regard to the loss suffered and any other relevant circumstances;

Enforcement abroad

28. (1) If the Criminal Court makes an unexplained wealth order in respect of any property, and

(a) it appears necessary for the Attorney General to avoid the risk that any recovery order which may subsequently be obtained will be frustrated, and

(a) the Attorney General believes that the property is situated in a country outside Malta (the receiving country), he may send a request for assistance in respect of the property to the Minister for Foreign Affairs with a view to its transmission in accordance with this article; (2) The Minister for Foreign Affairs shall be obliged to transmit the request for assistance to the Government of the receiving country without delay;

(3) A request for assistance under this article is a request to the Government of the receiving country:

(a) to secure that any person is prohibited from transferring the property;

(b) for assistance in connection with the management of the property, including securing its detention, custody or preservation; Enforcement abroad: Receiver 29 (1) If an interim freezing order has effect in relation to property, and the receiver appointed under article 18 in respect of the property believes that it is situated in a country outside Malta (the receiving country), the receiver may send a request for assistance in respect of the property to the Minister for Foreign Affairs with a view to its transmission in accordance with this article.

(2) The Minister for Foreign Affairs shall transmit the request for assistance to the Government of the receiving country without delay.

(3) A request for assistance under this Part is a request to the Government of the receiving country: (a) to secure that any person is prohibited from dealing with the property;

(b) for assistance in connection with the management of the property, including securing its detention, custody or preservation.

PART VIII

This Part amends the Criminal Code to provide for the creation of a new offence for a person who abuses the authority of his office

Amendments to the Criminal Code.

30. Immediately after article 127 of the Code, the following new article 127A shall be added:

4. '127A Abuse of Public Authority (1) "Unless the act constitutes a more serious offence, any public officer or employee who, in the performance of his functions or the provision of a service, in breach of any specific rule of conduct expressly laid down by law or by an instrument having the force of law, where such law or instrument allows no discretion in the exercise of that function or service:

(a) fails to abstain where he personally, or any relative of his, has a conflict of interest as established by law;

(b) intentionally obtains for himself or for other third parties an unjust patrimonial or monetary advantage, thereby causing damage, loss or prejudice to third parties through such unlawful act or omission; or

(c) abuses the trust expected of him by breaching (even through negligence) his duty to protect the pecuniary interests of the public treasury, thereby causing damage or financial loss to the public treasury, shall, on conviction, be liable, in the case falling under paragraph (a), to imprisonment for a term of between one and two years and, in the cases falling under paragraphs (b) and (c), to imprisonment for a term of between two and five years.

(2) For the purposes of paragraph (a) of sub-article (1), the words 'his relative' include: his grandparents; his parents; his children and cousins; his wife or husband, as the case may be, where they are married in accordance with the Marriage Act; another person with whom he is

cohabiting in accordance with the Cohabitation Act; or a person with whom he is in a civil union in accordance with the Civil Unions Act."

PART IX

This Part amends the Constitution of Malta to provide the highest possible protection for the right to free, independent and impartial journalism as one of the principal pillars of the rule of law

Amendment of articles 20A and 21 of the principal law and addition of a new article 22 to the principal law

33. Article 20A shall be renumbered as article 21 and article 21 shall be renumbered as article 23, and a new article 22 shall be inserted immediately after the renumbered article 21 as follows:

"(1) The State recognises a free press as a principal pillar of democracy and its pre-eminent role in a State governed by the rule of law, and shall have the duty to promote the independence of the press and safeguard media pluralism. The State shall have a positive obligation to protect and promote freedom of the press by providing an environment conducive to journalism for journalists and other persons in the media.

(2) The State shall promote broad participation in public debate on matters of public interest and shall ensure that journalists, other persons in the media and members of the public are not discouraged, including through fear of sanctions, retribution or other forms of retaliation, from making their views known and expressing their opinions on matters of public interest or from expressing critical judgements even where their truth cannot be proved.

(3) The State recognises the obligation of the press to impart, consistently with its duties and responsibilities as a public watchdog, information and ideas on all matters of public interest.

(4) The State shall facilitate access to, and the provision without delay of, truthful and credible information to journalists and other persons in the media for use in accordance with journalistic ethics and the principle of good faith.

(5) No journalist may be compelled to disclose the identity of his sources and journalists shall be entitled to protect their sources.

(6) The State shall protect journalists in every manner from strategic lawsuits against public participation brought before courts outside Malta and in Malta (SLAPP), and from threats of strategic lawsuits against public participation, whether threatened to be instituted before courts outside Malta or in Malta (SLAPP).

Amendments to article 41 of the principal law:

34. Article 41 shall be amended as follows:

(i) Sub-articles (1) and (2) of article 41 shall be substituted by the following new sub-articles:

(1) Everyone has the right to freedom of expression. No person shall be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence. These freedoms are recognised and shall be enjoyed as one of the essential conditions for the progress of a democratic society and for the development of every individual.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity

or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

(3) Everyone's right to free and independent journalism shall be protected.

Without prejudice to the preceding sub-article, in recognition of the role of the press as a pillar of democratic society, there shall be no interference by a public authority with the exercise of freedom of expression by journalists and other persons in the media, save where there is a serious and pressing social need.

(4) Public authorities shall facilitate access to information for the press and shall provide truthful and credible information without delay in accordance with the State's obligations of transparency and accountability.

(5) The protection of journalists' sources, including information capable of identifying a journalist's source, is guaranteed and may be restricted only subject to the conditions referred to in sub-article (2) of this article, and only where disclosure is considered necessary in a democratic society and it is convincingly established that:

i. no reasonable alternative measures exist or such measures have been exhausted by the persons or public authorities seeking disclosure of the source; and

ii. the legitimate interest in disclosure clearly outweighs the public interest in non-disclosure, provided that such need overriding the public interest is proved, the circumstances are sufficiently vital and serious in nature, and the need for disclosure is identified as necessary by reason of a pressing social need.

(6) Everyone shall have the right to ensure that the State performs its duties and positive obligations to promote and secure free and independent journalism.

(ii) Sub-article (3) shall be renumbered as sub-article (7).

In sub-article (7), as renumbered, the words 'twenty-one' in paragraph (a) of the proviso shall be substituted by the word 'eighteen'.

(iii) Sub-article (4) shall be renumbered as sub-article (8).

(iv) Sub-article (5) shall be renumbered as sub-article (9).

PART X

This Part amends the Media and Defamation Act to provide for protection against strategic lawsuits against public participation ('SLAPP suits')

Amendments to the Media and Defamation Act, Chapter 579 of the Laws of Malta

Clause 35. Amendment of article 5(4) of the Media and Defamation Act

Article 5(4) shall be substituted by the following: "(4) In determining whether it was reasonable for the defendant to believe that the publication of the statement complained of was in the public interest, the Court shall make allowance for:

(a) editorial judgement; and

(b) participation in public debate on matters of public interest without fear of legal action."

Clause 36. Amendment of article 10 of the Media and Defamation Act

The following new sub-article (4) shall be added immediately after article 10(3):

"(4) The Court shall, at the preliminary hearing or at any time before the final determination of the case, after hearing the parties, decide of its own motion or on an application made by the defendant to dismiss the claims where the Court considers that the case is likely to have the effect of

intimidating, restraining or discouraging public participation in debate on matters of public interest.'

Amendments to the Code of Organisation and Civil Procedure, Chapter 12 of the Laws of Malta

Clause 37. Amendment of article 827(1)(c) of the Code of Organisation and Civil Procedure

Article 827(I)(c) shall be amended to read as follows: "(c) if the judgment contains any provision contrary to public policy or contrary to the internal public law of Malta;

For the purposes of this sub-article, a judgment delivered against a person or entity ordinarily resident or domiciled or operating in Malta concerning alleged defamation, libel or insult, or concerning a tort or quasi-tort arising out of any publication as defined in the Media and Defamation Act (Cap. 579), shall be deemed contrary to public policy or to the internal public law of Malta where the judgment is likely to have the effect of intimidating, restraining or discouraging public participation in debate on matters of public interest. The defendant's failure to file a defence to proceedings instituted before a foreign court shall not prejudice this rule of public policy.

Clause 38. Amendment of article 827(2) of the Code of Organisation and Civil Procedure

After the words 'for the purposes of this article' there shall be inserted the words 'and this without prejudice to the provisions of article 827(1}(c)'.

Objects and Reasons

The objects and reasons of this Bill are to provide for the Constitution of Malta to set out the most important duties of the Government of Malta, thereby strengthening the rule of law and curbing abuse by those governing the country; to ensure that, once Parliament is dissolved and a caretaker Government is established, the powers and duties of that Government are limited to ordinary administration, and that no extraordinary decision is taken by the caretaker Government which binds a future Cabinet by measures that cannot be set aside, and to ensure that the caretaker Government does not abuse its position to the detriment of the Opposition so that general elections are held fairly and properly; to make any act carried out for the purpose of obstructing the administration of justice an offence; to make the conduct of a public officer or employee who wilfully abdicates the performance of his duties an offence; to make the unlawful and unauthorised use of electronic resources by any public officer or employee with the intention of causing loss to the public treasury or obtaining an unjust patrimonial advantage an offence against public authority; to make all membership of a criminal association of a mafia-type character a crime and, for the first time, to define such a mafia-type association; to empower the Criminal Court to issue Unexplained Wealth Orders so as to combat money laundering and corruption offences much more effectively and efficiently with a view to ending the impunity generated by those offences; to make the intentional conduct of a public officer or employee who, by deliberate abuse of his authority, commits an act or omission for the purpose of obtaining an advantage for himself or third parties, or of causing prejudice, harm or damage to third parties, a criminal offence; to enshrine the fundamental right to free journalism in the Constitution of Malta and, for the first time, to set out in the Constitution of Malta the positive obligations of the State in favour of free and independent journalism; and to protect the press, journalism and other persons from proceedings and lawsuits brought against them which have the effect of censoring, restraining, intimidating and preventing freedom of expression and participation in debate on matters of public interest;