

### **Abbozz ta' Liġi msejjah**

*ATT biex jemenda l-Kodiċi Kriminali (Kap. 9.) u biex jipprovdi għal affarijiet oħra li huma anċillari jew konsgwenzjali għal dan.*

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

**1.** (1) It-titolu fil-qosor ta' dan l-Att huwa Att tal-2014 li jemenda Diversi Liġijiet li jirrigwardaw materji kriminali (Emenda Nru. 2). Titolu fil-qosor.

(2) Id-disposizzjonijiet ta' dan l-Att għandhom jidhlu fis-seħh f'dik id-data li l-Ministru responsabbli għal Ġustizzja jista', b'avviż fil-Gazzetta, jistabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

### **TAQSIMA I Emendi għall-Kodiċi Kriminali**

**2.** Din it-Taqsima temenda l-Kodiċi Kriminali, u għandha tinqara u tiftiehem haġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "il-Kodiċi". Emendi tal-Kodiċi Kriminali. Kap. 9.

**3.** Fis-subparagrafu (i) tal-paragrafu (e) tas-subartikolu (1) tal-artikolu 5 tal-Kodiċi, minflok il-kliem "314B, 316" għandhom jidhlu l-kliem "314B, 314ĊA, 316". Emenda tal-artikolu 5 tal-Kodiċi.

**4.** Fis-subparagrafu (b) tal-artikolu 17 tal-Kodiċi, il-kliem "b'dan li ż-żmien li jingħata ma jiskorrix hamsa u tletin sena" għandhom jithassru. Emenda tal-artikolu 17 tal-Kodiċi.

**5.** L-artikolu 23Ċ tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 23Ċ tal-Kodiċi.

C 374

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "(3A)(b) u (d)" għandhom jidhlu l-kliem "(3A)(b), (d) u (7)"; u

(b) minnufih wara s-subartikolu (2) tiegħu għandu jizdied dan is-subartikolu ġdid li ġej:

"(3) Għall-finijiet ta' dan l-artikolu:

"reat rilevanti" tfisser kull reat li ma jkunx wieħed ta' natura involontarja li għalih tista' tingħata l-piena ta' prigunerija għal żmien iktar minn sena.

"proprjetà" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 23B(3)."

Emenda tal-artikolu 28G tal-Kodiċi.

6. L-artikolu 28G tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minnufih wara s-subartikolu (1) tiegħu, għandu jizdied is-subartikolu ġdid li ġej:

"(1A) Meta jkun inħareġ ordni ta' superviżjoni skont id-dispożizzjonijiet tas-subartikolu (1), il-qorti tista', b'żieda ma' dak l-ordni, toħroġ ordni ta' servizz fil-komunità kif imfisser fl-artikolu 11 tal-Att dwar il-*Probation* u d-dispożizzjonijiet tal-Att dwar il-*Probation* għandhom, *mutatis mutandis*, japplikaw għal dak l-ordni."; u

(b) minnufih wara s-subartikolu (9) tiegħu, għandu jizdied is-subartikolu ġdid li ġej:

"(10) Kull referenza għal ordni ta' superviżjoni għandha titqies li tinkludi ordni għal servizz fil-komunità."

Emenda tal-artikolu 31 tal-Kodiċi.

7. L-artikolu 31 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subparagrafu (i) tas-subparagrafu (xiv), it-tnejn inkluzi, tal-paragrafu (b) tas-subartikolu (1) tiegħu għandhom jiġi enumerati mill-ġdid bħala s-subparagrafi (ii) sa (xv) rispettivament u minnufih qabel is-subparagrafu (ii), kif enumerat mill-ġdid, għandu jizdied is-subparagrafu ġdid li ġej:

"(i) minn għaxar snin sa erbgħin sena;";

(b) fil-paragrafu (c) tas-subartikolu (1) tiegħu, minflok il-kliem "l-inżul mill-erbatax-il grad" għandhom jidhlu l-kliem "l-inżul mill-ħmistax-il grad"; u

(ċ) fil-paragrafu (d) tas-subartikolu (1) tiegħu, minflok il-kliem "jinbeda' mill-erbatax-il grad" għandhom jidhlu l-kliem "jinbeda' mill-ħmistax-il grad".

8. L-artikolu 49 tal-Kodiċi għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 49 tal-Kodiċi.

"49. (1) Persuna titqies reċidiva jekk, wara li tkun giet ikkundannata għal reat b'sentenza, ukoll meta mogħtija minn qorti barranija li tkun għaddiet f'gudikat, tagħmel reat ieħor.

(2) F'xi proċeduri taħt jew għall-finijiet ta' dan l-artikolu, dokument, debitament awtentikat, li jiċċertifika li persuna nstabet hatja ta' reat kontra l-liġi ta' dak l-Istat jew parti minnu, fid-data speċifikata fid-dokument, għandu jkun ammissibbli bħala prova tal-fatt u tad-data tad-dikjarazzjoni ta' htija mingħajr htieġa ta' xi prova ulterjuri.

(3) Dokument għandu jitqies li hu debitament awtentikat jekk waħda minn dawn il-kondizzjonijiet li ġejjin tapplika:

(a) jekk jidher li hu ffirmat minn imħallef, magistrat jew uffiċjal tal-Istat fejn tkun ingħatat is-sentenza; jew

(b) jekk jidher li hu ċċertifikat mill-Ministeru, dipartiment jew awtorità oħra responsabbli għall-gustizzja jew għall-affarijiet barranin tal-Istat fejn tkun ingħatat is-sentenza, sew jekk ikun b'sigill u sew jekk le; jew

(ċ) jekk jidher li hu awtentikat b'gurament, stqarrija jew affermazzjoni ta' xhud.

(4) Kull dokument li jkun ser jintbagħat b'rabta mal-proċeduri taħt dan l-artikolu jista' jintbagħat b'kull mezz sigur li jkun kapaċi jipproduċi dokumentazzjoni bil-miktub u taħt kondizzjonijiet li jippermettu l-aċċertament tal-awtenticità tiegħu.

(5) F'dan l-artikolu, "gurament" tinkludi affermazzjoni jew stqarrija; u xejn f'dan l-artikolu m'għandu jinftiehem li jippreġudika dokument li jkun ammissibbli bħala prova taħt xi dispożizzjoni oħra tal-liġi."

C 376

Sostituzzjoni tal-intestatura tat-**Titolu I** tat-**Taqsim**a II tal-**Ewwel Ktieb** tal-Kodiċi.

**9.** Minnufih qabel l-artikolu 54A tal-Kodiċi, l-intestatura tat-**Titolu I** tat-**Taqsim**a II tal-**Ewwel Ktieb** għandha tiġi sostitwita bl-intestatura ġdida li ġejja: "**FUQ IL-ĠENOĊIDJU, DELITTI KONTRA L-UMANITÀ, DELITTI TAL-GWERRA U DELITTI TA' AGGRESSJONI**".

Emenda tal-artikolu 54A tal-Kodiċi.

**10.** L-artikolu 54A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Huwa delitt li persuna tikkommetti ġenoċidju, delitt kontra l-umanità, delitt tal-gwerra jew delitt ta' aggressjoni.";

(b) fis-subartikolu (2) tiegħu, minnufih wara t-tifsira "delitt tal-gwerra" għandha tizdied it-tifsira ġdida li ġejja:

" "delitt ta' aggressjoni" tfisser delitt tal-gwerra kif imfisser fl-artikolu 54DA;" u

(ċ) fis-subartikolu (4) tiegħu, minflok il-kliem "54Ċ u 54D" għandhom jidhlu l-kliem "54Ċ, 54D u 54DA".

Emenda tal-artikolu 54D tal-Kodiċi.

**11.** Minnufih wara s-subparagrafu (xii) tal-paragrafu (e) tal-artikolu 54D tal-Kodiċi, għandhom jizdiedu s-subparagrafi ġodda li ġejjin:

"(xiii) l-użu ta' velenu jew armi bil-velenu;

(xiv) l-użu ta' gassijiet assfissjanti, velenużi jew gassijiet oħra, u l-likwidi, materjali jew apparati oħra simili;

(xv) l-użu ta' balal li jespandu jew jiċċattjaw faċilment fil-ġisem tal-bniedem, bħal ma huma balal b'għatu iebes li ma jgħattix kompletament il-qalba tal-balla jew huwa mtaqqab b'qatgħat;"

Żjieda ta' artikolu ġdid mal-Kodiċi.

**12.** Minnufih wara l-artikolu 54D tal-Kodiċi, għandu jizdied l-artikolu ġdid li ġej:

"Delitt ta' aggressjoni.

54DA. (1) Delitt ta' aggressjoni jfisser l-ippjanar, it-tnejja, il-bidu jew it-twertiq, min-naħa ta' persuna li tkun pożizzjoni li effettivament teżercita kontroll fuq, jew li tidderiegi l-azzjoni politika jew militari ta' Stat, ta' att ta' aggressjoni li, min-natura, gravità jew skala tiegħu, jikkostitwixxi ksur manifest tal-Karta tan-Nazzjonijiet Uniti.

(2) Għall-finijiet ta' dan l-artikolu, "att ta' aggressjoni" ifisser l-użu ta' forza armata min-naħa ta' Stat kontra s-sovranità, l-integrità territorjali jew l-indipendenza politika ta' Stat ieħor, jew li b'xi mod ieħor hu inkonsistenti mal-Karta tan-Nazzjonijiet Uniti.

(3) Kull wiehed mill-atti li ġejjin, irrispettivament jekk ikunx hemm dikjarazzjoni ta' gwerra, għandu, skont ir-Riżoluzzjoni 3314(XXIX) tal-Assemblea Ġenerali tan-NU tal-14 ta' Diċembru 1974, jikkwalifika bħala att ta' aggressjoni:

(a) l-invażjoni jew l-attakk mill-forzi armati ta' Stat fuq it-territorju ta' Stat ieħor, jew kull okkupazzjoni militari, ukoll jekk tkun temporanja, li tirrizulta minn dik l-invażjoni jew dak l-attakk, jew kull annessjoni, bl-użu tal-forza, tat-territorju ta' Stat ieħor jew parti minnu;

(b) il-bombardament min-naħa tal-forzi armati ta' Stat kontra t-territorju ta' Stat ieħor jew l-użu ta' kull arma min-naħa ta' Stat kontra t-territorju ta' Stat ieħor;

(ċ) l-ibblukkar tal-portijiet jew il-kosti ta' Stat min-naħa tal-forzi armati ta' Stat ieħor;

(d) attakk min-naħa tal-forzi armati ta' Stat fuq il-forzi tal-art, tal-baħar jew tal-ajru, jew il-flotot tal-baħar jew tal-ajru ta' Stat ieħor;

(e) l-użu tal-forzi armati ta' Stat, liema forzi armati jkunu jinsabu fit-territorju ta' Stat ieħor bi ftehim tal-Istat riċeventi, bi ksur tal-kondizzjonijiet previsti fil-ftehim, jew l-estensjoni tal-preżenza tagħhom fuq dak it-territorju lil hinn mit-temm tal-ftehim;

(f) l-azzjoni ta' Stat li jippermetti li t-territorju tiegħu, li jkun qiegħed għad-dispożizzjoni ta' Stat ieħor, jintuża minn dak l-Istat ieħor biex jitwettaq att ta' aggressjoni kontra Stat terz; u

(g) li jintbagħtu minn jew f'isem Stat għaqdiet jew gruppi ta' nies armati, forzi irregolari jew merċenarji, li jwettqu att ta' forza bl-armi kontra Stat ieħor, liema atti jkunu ta' dik il-gravità li jammontaw għall-atti fuq imsemmija, jew li jkunu jonvolvu att ta' aggressjoni fit-twettiq tagħhom."

Emenda tal-artikolu 82A tal-Kodiċi.

**13.** L-artikolu 82A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "vjolenza jew mibegħda", kull fejn jidhru fl-imsemmi artikolu 82A, għandhom jidhru l-kliem "vjolenza jew mibegħda razzjali"; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "lingwa, oriġini etnika," għandhom jidhru l-kliem "lingwa, oriġini nazzjonali jew etnika, ċittadinanza,".

Emenda tal-artikolu 82B tal-Kodiċi.

**14.** Fl-artikolu 82B tal-Kodiċi, minflok il-kliem "dixxendenza jew oriġni nazzjonali" għandhom jidhru l-kliem "ċittadinanza, dixxendenza jew oriġni nazzjonali".

Emenda tal-artikolu 82Ċ tal-Kodiċi.

**15.** Fis-subartikolu (1) tal-artikolu 82Ċ tal-Kodiċi, minflok il-kliem "lingwa, oriġini etnika" għandhom jidhru l-kliem "lingwa, oriġni nazzjonali jew etnika, ċittadinanza,".

Emenda tal-artikolu 83 tal-Kodiċi.

**16.** Fl-artikolu 83 tal-Kodiċi, minnufih wara l-kliem "li twaqqaf, iżzomm" għandhom jiżdiedu l-kliem "wahedha jew ma' persuni oħra"; u minflok il-kliem "multa ta' mhux iżjed minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (€232.94) jew il-piena ta' prigunerija għal mhux iżjed minn sitt xhur jew għal multa u l-prigunerija flimkien" għandhom jidhru l-kliem "multa ta' mhux iżjed minn ħamest elef euro (€5000) jew il-piena ta' prigunerija għal żmien minn disa' xhur sa ħames snin jew għal multa u prigunerija flimkien".

**17.** L-artikolu 83A tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 83A tal-Kodiċi.

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Kull min -

(a) jippromwovi, jikkostitwixxi, jorganizza jew jiffinanzja għaqda bil-ħsieb li jitwettqu reati kriminali soġġetti għal-piena ta' prigunerija għal żmien erba' snin jew iktar; jew

(b) waqt li jkun jaf jew ikollu kawża raġonevoli li jissuspetta dwar l-għan jew l-attività b'mod ġenerali tal-għaqda stabbilita għall-finijiet imsemmija fil-paragrafu (a), jipparteċipa b'mod attiv fl-attivitajiet kriminali tal-għaqda, inklużi iżda mhux limitati għall-għoti ta' informazzjoni jew ta' mezzi materjali jew ir-reklutaġġ ta' membri godda,

ikun ħati ta' reat u jehel, meta jinsab ħati, il-piena ta' prigunerija għal żmien minn erbgħa sa disa' snin.";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "jista' għal dak il-fatt biss jehel il-piena ta' prigunerija għal żmien minn sena sa ħames snin" għandhom jidhlu l-kliem "jehel għal dak il-fatt biss il-piena ta' prigunerija għal żmien minn sentejn sa seba' snin"; u

(ċ) fis-subartikolu (4) tiegħu, minflok il-kliem "taħt dan l-artikolu" għandhom jidhlu l-kliem "taħt dan it-titolu".

**18.** Fis-subtitolu qabel l-artikolu 83B tal-Kodiċi minflok il-kliem "MOTIVATI BI KSENOFOBIJA" għandhom jidhlu l-kliem "MOTIVATI BI KSENOFOBIJA JEW OMOFOBIJA".

Emenda tas-subtitolu qabel l-artikolu 83B tal-Kodiċi.

**19.** Fl-artikolu 83B tal-Kodiċi, minflok il-kliem "lingwa, oriġini etnika" għandhom jidhlu l-kliem "lingwa, oriġni nazzjonali jew etnika, ċittadinanza,"; u minflok il-kliem "fis-subartikoli (3) sa (6), it-tnejn inklużi, tal-artikolu 222A." għandhom jidhlu l-kliem "fis-subartikoli (3) sa (6), it-tnejn inklużi, tal-artikolu 222A: ", u minnufih wara għandu jżied il-proviso ġdid li ġej:

Emenda tal-artikolu 83B tal-Kodiċi.

"Iżda d-dispożizzjonijiet ta' dan l-artikolu ma għandhomx jgħoddu meta l-aggravju tal-piena fir-rigward tal-motivi msemmija f'dan l-artikolu jkun diġà previst f'dan il-Kodiċi jew f'xi liġi oħra."

C 380

Żjieda ta' artikolu ġdid mal-Kodiċi.

**20.** Minnufih wara l-artikolu 83B tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

"Reati mwettqa minn korp maqgħud.

83Ċ Kull meta jiġi kommess reat għall-benefiċċju, jew kollu jew f'parti, ta' korp maqgħud minn persuna li għandha s-setgħa li tirrappreżenta l-korp maqgħud, l-awtorità li tiegħu deċiżjoni f'isem il-korp maqgħud, jew l-awtorità li teżerċita kontroll fuq il-korp maqgħud, il-persuna ġuridika tista' tkun sugġetta għal:

(a) esklużjoni minn intitolament ta' benefiċċji pubbliċi jew għajnuna;

(b) l-iskwalifika temporanja jew permanenti milli tipprattika attivitajiet kummerċjali;

(ċ) tqegħid taħt superviżjoni ġudizzjarja;

(d) stralc ġudizzjarju; jew

(e) l-għeluq temporanju jew permanenti tal-istabbilimenti.

Iżda d-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw meta l-piena msemmija f'dan l-artikolu tkun diġà prevista f'dan il-Kodiċi jew f'xi liġi oħra."

Żjieda ta' artikolu ġdid mal-Kodiċi.

**21.** Minnufih wara l-artikolu 135 tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

"Promozzjoni ta' vjolenza jew mibegħda razzjali minn uffiċjali pubbliċi.

135A. Kull uffiċjal jew impjegat pubbliku li, f'konnessjoni mal-kariga, joħloq jew jassumi l-kariga ta' kap ta' grupp li jippromwovi vjolenza jew mibegħda razzjali fi ħdan it-tifsira tas-subartikoli (3) sa (6), it-tnejn inklużi, tal-artikolu 222A, għandu, meta l-att li ġie mwettaq ma tikkostitwix reat aktar serju, jeħel piena ta' prigunerija minn sena sa hames snin."

Emenda tal-artikolu 161 tal-Kodiċi.

**22.** Fl-artikolu 161 tal-Kodiċi, minflok il-kliem "li qegħdin għall-vantaġġ pubbliku jew għaż-zina pubblika u li jkunu ġew imwaqqfin mill-awtorità pubblika, jew bis-setgħa tagħha, jeħel, meta jinsab hati, il-piena ta' prigunerija minn xahar sa sena jew multa ta' mhux iżjed minn elfejn tliet mija u disgħa u għoxrin euro u sebgha u tletin ċenteżmu (€2,329.37)" għandhom jidhlu l-kliem "li qegħdin



għall-vantaġġ pubbliku jew għat-tisbiħ pubbliku u li jkunu ġew imwaqqfin mill-awtorità pubblika, jew bis-setgħa tagħha, jehel, meta jinsab hati, il-piena ta' prigrunerija minn sitt xhur sa tmintax-il xahar jew ta' multa ta' mhux iżjed minn tliet elef u ħames mitt euro (€3,500)".

**23.** Fl-artikolu 162 tal-Kodiċi, minflok il-kliem "jehel il-piena ta' prigrunerija minn xahar sa tmintax-il xahar jew multa ta' mhux iżjed minn elf mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (1,164.69)" għandhom jidhlu l-kliem "jehel il-piena ta' prigrunerija minn disa xhur sa sentejn jew multa ta' mhux iżjed minn ħamest elef euro (€5,000)".

Emenda tal-artikolu 162 tal-Kodiċi.

**24.** L-artikolu 222A tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 222A tal-Kodiċi.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "lingwa, oriġini etnika" għandhom jidhlu l-kliem "lingwa, nazzjonalità jew oriġini etnika, ċittadinanza,"; u

(b) fis-subartikolu (3) tiegħu, minflok il-kliem "lingwa, oriġini etnika" għandhom jidhlu l-kliem "lingwa, nazzjonalità jew oriġini etnika, ċittadinanza,".

**25.** L-artikolu 250 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 250 tal-Kodiċi.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "ħames xhur sa tmintax-il xahar" għandhom jidhlu l-kliem "sena sa erba' snin";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "seba' xhur sa tliet snin" għandhom jidhlu l-kliem "tmintax-il xahar sa ħames snin".

**26.** Minnufih wara s-subartikolu (2) tal-artikolu 251 tal-Kodiċi għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 251 tal-Kodiċi.

"(3) Kull min jikkawża lil haddieħor biża li se tintuża vjolenza kontrih jew kontra l-proprjetà tiegħu jew kontra l-persuna jew il-proprjetà ta' xi ħadd mill-axxendenti, dixxendenti, aħwa subien jew bniet jew xi persuna msemmija fl-artikolu 222(1), jehel il-pieni preskritti fis-subartikolu (1) imnaqqsa b'grad wiehed jew tnejn:

Iżda meta l-hati jkun laħaq il-mira tiegħu, hu jista' jehel il-piena stabbilita fis-subartikolu (2) imnaqqsa b'grad wiehed jew tnejn."

C 382

Emenda tal-artikolu 251A tal-Kodiċi.

**27.** Is-subartikolu (4) tal-artikolu 251A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "xahar sa tliet xhur" għandhom jidhlu l-kliem "xahar sa sitt xhur"; u

(b) minflok il-kliem "elfejn u tliet mija u disgħa u għoxrin euro u sebgha u tletin ċenteżmu (2,329.37) u mhux iżjed minn erbat elef u sitt mija u tmienja u hamsin euro u hamsa u sebghin ċenteżmu (4,658.75)" għandhom jidhlu l-kliem "elfejn u hames mitt euro (2,500) u mhux iżjed minn hamest elef euro (5,000)".

Żjieda ta' artikolu ġdid mal-Kodiċi.

**28.** Minnufih wara l-artikolu 251A tal-Kodiċi, għandu jizzied l-artikolu ġdid li ġej:

"Segwiment ta' persuna bil-moħbi.

251AA. (1) Persuna:".

(a) li ġġib ruħha b'mod li jkun bi ksur tal-artikolu 251A(1), u

(b) l-imġiba tagħha jammonta għal segwiment ta' persuna bil-moħbi, tkun hatja ta' reat taħt dan l-artikolu.

(2) Għall-finijiet tal-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu u l-artikolu 251BA(1)(a), persuna ġġib ruħha b'mod li l-imġiba tagħha tkun tammonta għal segwiment ta' persuna bil-moħbi jekk:

(a) tammonta għal fastidju ta' dik il-persuna,

(b) l-atti jew l-ommissjonijiet involuti huma azzjonijiet assoċjati ma' segwiment ta' persuna bil-moħbi, u

(ċ) dik il-persuna, li twettaq dik l-imġiba, taf jew imissha tkun taf li dik l-imġiba tammonta għal fastidju tal-persuna l-oħra.

(3) Dawn li ġejjin huma eżempji ta' atti jew ommissjonijiet li, f'ċirkostanzi partikolari, huma azzjonijiet assoċjati ma' segwiment ta' persuna bil-moħbi:

(a) li wieħed jimxi wara persuna,

(b) li wieħed jagħmel kuntatt, jew jittanta jagħmel kuntatt, ma' persuna bi kwalunkwe mezz,

(ċ) il-pubblikazzjoni, bi kwalunkwe mezz, ta' xi dikjarazzjoni jew materjal ieħor -

(i) li jirrigwarda jew li jagħti lil wiehed x'jifhem li jirrigwarda persuna, jew

(ii) li jagħti lil wiehed x'jifhem li jorigina minn persuna,

(d) il-monitoraġġ tal-użu ta' persuna tal-internet, tal-posta elettronika jew ta' kull forma oħra ta' komunikazzjoni elettronika,

(e) li wiehed jitlajja fi kwalunkwe post, kemm pubbliku jew privat,

(f) indħil f'xi proprjetà li tkun fil-pussess ta' persuna,

(g) li wiehed joqgħod għassa jew jispija fuq persuna.

(4) Persuna li tinsab haġja ta' reat taħt dan l-artikolu tehel il-piena ta' prigunerija għal żmien minn sitt xhur sa tmax-il xahar jew multa ta' mhux iżjed minn għaxart elef euro (10,000), jew dik il-multu u prigunerija flimkien:

Izda l-piena għandha tiżdied bi grad wiehed meta r-reat isir kontra xi persuna msemmija fl-artikolu 222(1)."

**29.** Minnufih wara l-artikolu 251B tal-Kodiċi, għandu jizdied l-artikolu ġdid li ġej:

Adds new article to the Code.

"Segwiment ta' persuna bil-moħbi li jinvolti biza li titwettaq vjolenza, li wiehed jallarma jew li jdejjaq lil hadd ieħor.

251BA. (1) Persuna li l-imġiba tagħha -

(a) tammonta għal segwiment ta' persuna bil-moħbi, u

(b) jew:

(i) tikkaġuna li persuna oħra tibza' f'għallinqas żewġ okkażjonijiet li ser tintuża vjolenza fuqha, jew

(ii) tikkaġuna fuq persuna oħra allarm jew dwejjaq li jkollu effett avvers sostanzjali fuq l-attivitajiet normali ta' kuljum ta' dik il-persuna,

tkun hatja ta' reat taht dan l-artikolu jekk tkun taf jew imissha tkun taf li l-imgiba tagħha ser tikkaguna biża' fil-persuna f'kull waħda minn dawk l-okkazjonijiet jew, kif ikun il-każ, ser tikkaguna dak l-allarm jew dwejjaq.

(2) Għall-finijiet ta' dan l-artikolu, il-persuna li l-imgiba tagħha tkun waħda dubjuża jmissha tkun taf li tkun ser tikkaguna biża' f'haddiehor li ser tintuza vjolenza kontrih f'xi okkazjoni jekk persuna raġonevoli li jkollha l-istess informazzjoni kieku taħseb li dik l-imgiba tkun ser tikkaguna biża' fil-persuna l-oħra f'dik l-okkazjoni.

(3) Għall-finijiet ta' dan l-artikolu, il-persuna li l-imgiba tagħha tkun waħda dubjuża jmissha tkun taf li tkun ser tikkaguna allarm jew dwejjaq f'haddiehor li ser ikollu effett avvers sostanzjali fuq l-attivitajiet normali ta' kuljum ta' dik il-persuna jekk persuna raġonevoli li jkollha l-istess informazzjoni kieku taħseb li dik l-imgiba tkun ser tikkaguna dak l-allarm jew dwejjaq.

(4) Persuna akkużata b'reat taht dan l-artikolu tista' ggib prova li l-imgiba tagħha kienet adottata fiċ-ċirkostanzi msemmija fl-artikolu 251B(3)(a) jew (b).

(5) Persuna li tinsab hatja ta' reat taht dan l-artikolu tehel il-piena ta' prigunerija għal żmien minn disa' xhur sa hames snin jew multa ta' mhux iżjed minn tletin elf euro (30,000), jew dik il-multu u prigunerija flimkien:

Iżda l-piena għandha tizdied bi grad wiehed meta r-reat isir kontra xi persuna msemmija fl-artikolu 222(1).

(6) Il-fatt li persuna mixlija b'reat taht dan l-artikolu tigi illiberata ma jeskludix li tistab hatja ta' reat kontra l-artikoli 251A jew 251AA.

(7) Dan l-artikolu għandu jkun mingħajr preġudizzju għall-ġeneralità tad-dispożizzjonijiet tal-artikolu 251B."

**31.** L-artikolu 251D tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

"Dispożizzjonijiet ġenerali.

251D. (1) Il-pieni stabbiliti fid-dispożizzjonijiet ta' qabel ta' dan is-sub-titolu għandhom jiżdedu minn grad sa żewġ gradi meta r-reat ikun aggravat jew motivat fuq bażi ta' ġeneru, identità tal-ġeneru, orjentazzjoni sesswali, razza, kulur, lingwa, oriġini etnika jew nazzjonali, reliġjon jew twemmin jew opinjoni politika jew opinjoni oħra fi hdan it-tifsira mogħtija fis-subartikoli (3) sa (6), it-tnejn inklużi, tal-artikolu 222A.

(2) Il-pieni stabbiliti fl-artikoli 251A sa 251BA, it-tnejn inklużi, għandhom jiżdedu bi grad wieħed meta r-reat isir b'xi wieħed mill-mezzi msemmijin fl-artikolu 337B(1).

(3) Meta persuna tiġi mixlija taħt l-artikoli 251 sa 251BA, it-tnejn inklużi, ilk-qorti tista' tagħmel ordni skont is-subartikolu (1) u l-paragrafi (a) sa (ċ), it-tnejn inklużi, tas-subartikolu (3) tal-artikolu 412Ċ."

Sostituzzjoni tal-artikolu 251D tal-Kodiċi.

**32.** L-artikolu 298B tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

"Ksur tad-drittijiet tal-awtur.

298B. (1) Kull persuna li, fl-eżercizzju ta' xi kummerċ jew fil-kors tan-negozju jew bil-għan li tagħmel qligħ għaliha nnifsha jew għal xi persuna oħra, jew bil-ħsieb li tikkawża telf, jew tippreġudika, lil persuna oħra:

(a) tistampa, timmanifattura, tidduplika jew mod ieħor tirriproduċi jew tikkopja, jew tbiegħ, tqassam, jew mod ieħor toffri għall-bejgħ jew biex jitqassam, xi artikolu jew xi haġa oħra bi ksur tad-drittijiet tal-awtur protetti bi jew taħt il-liġi ta' Malta, jew

(b) ikollha fil-pussess tagħha, kustodja jew kontroll ta' xi artikolu bħal dan jew haġa oħra bil-għan li twettaq wieħed mill-atti msemmija taħt il-paragrafu (a),

Sostituzzjoni tal-artikolu 298B tal-Kodiċi.

tehel, meta tinsab hatja, prigunerija ghal żmien ta' mhux iżjed minn tliet snin jew multa ta' mhux anqas minn tliet elef euro (€3,000) u mhux aktar minn erba' u ghoxin elf euro (€24,000) jew dik il-multa u l-prigunerija flimkien.

(2) Proċedimenti taht dan l-artikolu ma jistgħux jittiehdu hlief bil-kwerela tal-parti offiża."

Emenda tal-artikolu 308 tal-Kodiċi.

**33.** Fl-artikolu 308 tal-Kodiċi, minflok il-kliem "il-piena ta' prigunerija minn seba' xhur sa sentejn" għandhom jidhlu l-kliem "il-piena ta' prigunerija minn sena sa seba' snin".

Emenda tal-artikolu 309 tal-Kodiċi.

**34.** Fl-artikolu 309 tal-Kodiċi, minflok il-kliem "il-piena tkun ta' prigunerija minn xahar sa sitt xhur" għandhom jidhlu l-kliem "il-piena tkun ta' prigunerija minn xahrejn sa sentejn".

Sostituzzjoni tal-artikolu 310 tal-Kodiċi.

**35.** L-artikolu 310 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"310. (1) Fil-każijiet imsemmija f'dan is-sub-titolu -

(a) meta l-ammont tal-ħsara magħmula mill-ħati huwa aktar minn ħamest elef euro (€5000), il-piena tkun ta' prigunerija minn sentejn sa disa' snin;

(b) meta l-ammont ta' ħsara magħmula mill-ħati huwa aktar minn ħames mitt euro (€500) iżda mhux aktar minn ħamest elef euro (€5000), il-piena tkun ta' prigunerija minn sitt xhur sa erba' snin:

Iżda jekk il-piena stabbilita għar-reat relevanti fl-artikoli preċedenti ta' dan is-sub-titolu tkun oghla mill-piena stabbilita f'dan il-paragrafu, għandha tapplika l-piena l-ewwel imsemmija miżjuda bi grad u fil-każ tar-reat taht l-artikolu 294, il-piena hekk miżjuda ma tingħatax fil-minimu tagħha;

(ċ) meta l-ammont tal-ħsara magħmula mill-ħati ma jkunx aktar minn ħames mitt euro (€500), il-piena tkun ta' prigunerija għal żmien mhux aktar minn sitt xhur.

(2) Id-dispożizzjoni tas-subartikolu (1)(ċ) ma tghoddx fil-każ ta' delitti msemmija fl-artikoli 296 u 298."

Emenda tal-artikolu 310A tal-Kodiċi.

**36.** Fl-artikolu 310A tal-Kodiċi, minflok il-kliem "121Ċ,121D u 248E(4)" għandhom jidhlu l-kliem "121Ċ,121D, 248E(4) u 328K".

**37.** Minnufih wara l-artikolu 310B tal-Kodiċi, għandu jizjed l-artikolu ġdid li ġej:

Zjieda ta' artikolu ġdid mal-Kodiċi.

"Pussess, għemil jew provvista, eċċ. ta' oġġetti għall-użu fi frodi.

310BA.(1) Kull jinstab fil-pussess ta' jew ikollu taht il-kontroll tiegħu xi oġġett għall-użu fit-twertiq jew f'konnessjoni ma' xi frodi, ikun hati ta' reat u jeħel, meta jinstab hati, prigunerija għal żmien minn sitt xhur sa tliet snin u l-konfiska ta' dawk l-oġġetti.

(2) Kull minn jagħmel, jaddatta, jipprovdi jew joffri li jipprovdi xi oġġett -

(a) meta jkun jaf li dak l-oġġett huwa intiz jew adattat biex jintuza fit-twertiq ta' jew f'konnessjoni ma' frodi, jew

(b) bl-intenzjoni li jintuza biex titwettaq frodi jew jassisti fl-għemil ta' frodi,

ikun hati ta' reat u jeħel, meta jinstab hati, prigunerija għal żmien minn tnax-il xahar sa ħames snin u l-konfiska ta' dawk l-oġġetti.

(3) Għall-finijiet ta' dan l-artikolu:

"oġġett" jinkludi kull dokument, programm jew *data* miżmuma b'mod elettroniku; u

"dokument" għandu jkollha l-istess tifsira kif mogħtija lilha bl-artikolu 558(2)."

**38.** L-artikolu 316 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 316 tal-Kodiċi.

(a) minflok il-kliem "bastiment, baċil" għandhom jidhlu l-kliem "bastiment, vettura, baċil";

(b) fil-paragrafu (a) tiegħu, minflok il-kliem "disa' snin sa tnax-il sena" għandhom jidhlu l-kliem sitt snin sa tnax-il sena"; u

(ċ) fil-paragrafu (b) tiegħu, minflok il-kliem "ħames snin sa disa' snin" għandhom jidhlu l-kliem "erba' snin sa disa' snin".

**39.** Fl-artikolu 317 tal-Kodiċi, minflok il-kliem "bini, għarix" għandhom jidhlu l-kliem "bini, vettura, għarix".

Emenda tal-artikolu 317 tal-Kodiċi.

**40.** Fl-artikolu 318 tal-Kodiċi, minflok il-kliem "bini, għarix" għandhom jidhlu l-kliem "bini, vettura, għarix"; u minflok il-kliem "u

Emenda tal-artikolu 318 tal-Kodiċi.

C 388

dan il-bini, gharix" għandhom jidhlu l-kliem "u dan il-bini, vettura, gharix".

Emenda tal-artikolu 325 tal-Kodiċi.

**41.** Is-subartikolu (1) tal-artikolu 325 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) il-paragrafu (a) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(a) jekk l-ammont tal-ħsara ikun iżjed minn elfejn u ħames mitt euro (2,500), il-piena ta' prigunerija minn tmintax-il xahar sa erba snin;"

(b) il-paragrafu (b) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(b) jekk l-ammont tal-ħsara ma jkunx jiskorri elfejn u ħames mitt euro (2,500), iżda jkun iżjed minn mitejn u ħamsin euro (250), il-piena ta' prigunerija minn tmien xhur sa erbatax il-xahar;" u

(ċ) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(ċ) jekk l-ammont tal-ħsara ma jkunx jiskorri l-mitejn u ħamsin euro (250), il-piena ta' prigunerija għal perjodu li ma jaqbiżx is-sitt xhur;"

Emenda tal-artikolu 325A tal-Kodiċi.

**42.** Fis-subartikolu (1) tal-artikolu 325A tal-Kodiċi, minflok il-kliem "lingwa, oriġini etnika" għandhom jidhlu l-kliem "lingwa, nazzjonalità, oriġini etnika, ċittadinanza,".

Emenda tal-artikolu 328 tal-Kodiċi.

**43.** L-artikolu 328 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fil-proviso tiegħu, minflok il-kliem "bil-kwerela tal-parti offiża." għandhom jidhlu l-kliem "bil-kwerela tal-parti offiża.;" u

(b) minnufih wara l-proviso tiegħu għandu jżjed il-proviso ġdid li ġej:

"Iżda wkoll meta jittiehdu l-proċedimenti msemmija fil-paragrafu (d) fir-rigward ta' ħsara kaġunata fuq vettura bil-mutur, li tkun proprjetà pubblika, bil-kwerela tal-kap ta' dak id-dipartiment tal-Gvern li jkun inkarigat minn dik il-vettura, id-dispożizzjonijiet tal-artikolu 374(d) ma għandhomx japplikaw għal dawk il-proċedimenti wara li l-kwerelant ikun ikkonferma l-



kwerela tiegħu bil-gurament quddiem il-qorti u l-assenza tal-kwerelant mill-qorti f'kull stadju tal-proċedimenti ma għandhiex titqies li tikkostitwixxi l-abbandun tal-proċedimenti jew l-irtirar tal-kwerela sakemm dik l-assenza sseħħ fi stadju sussegwenti għall-imsemmija konferma bil-gurament tal-kwerela mill-kwerelant."

**44.** Fis-subparagrafu (i) tal-paragrafu (a) tas-subartikolu (1) tal-artikolu 328N tal-Kodiċi, minflok il-kliem "bejn sema u ilma" għandhom jidhlu l-kliem "f'ibħra miftuħa".

Emenda tal-artikolu 328N tal-Kodiċi.

**45.** Fil-paragrafu (ċ) tal-artikolu 355AV tal-Kodiċi, minflok il-kliem "bil-kunsens tal-persuna arrestata:" għandhom jidhlu l-kliem "bil-kunsens tal-persuna arrestata u d-dispożizzjonijiet tal-proviso għall-artikolu 355BB għandhom, *mutatis mutandis*, japplikaw:".

Emenda tal-artikolu 355AV tal-Kodiċi.

**46.** L-artikolu 355BA tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 355BA tal-Kodiċi.

(a) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem "marki tal-pali ta' l-idejn" għandhom jidhlu l-kliem "marki tal-pali tal-idejn, marki oħra jew kampjuni tal-kaligrafija"; u

(b) fil-paragrafu (a) tas-subartikolu (2) tiegħu, minflok il-kliem "marki tal-pala ta' l-id jew marki oħra tagħha", għandhom jidhlu l-kliem "marki tal-pala tal-id, marki oħra jew kampjuni tal-kaligrafija tagħha".

**47.** Il-proviso tal-artikolu 355BB tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 355BB tal-Kodiċi.

"Izda fil-każ fejn persuna, li ma tkunx il-persuna arrestata, tirrifjuta li tagħti l-kunsens tagħha għat-tehid ta' kampjun, kemm jekk ikun kampjun intimu kif ukoll jekk ikun kampjun mhux intimu, tista' wkoll tinkiseb l-awtorizzazzjoni ta' Magistrat wara li jsir rikors u, minghajr hsara għad-dispożizzjonijiet tal-artikolu 355AZ, dik l-awtorizzazzjoni għandha tkopri wkoll it-tehid ta' dawk il-miżuri proporzjonati u neċessarji inkluż l-użu tal-forza mill-Pulizija Eżekuttiva biex jinghata effett għal dik l-awtorizzazzjoni."

**48.** Minnufih wara l-artikolu 355BĊ tal-Kodiċi għandu jżjed l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Kodiċi.

"Użu ta' kampjuni.

355BD. Il-Kummissarju tal-Pulizija jista' jagħmel użu ta' kampjuni, li jkunu ttiehdu fi proċedimenti kriminali, għal proċedimenti kriminali oħra."

C 390

Emenda tal-artikolu 360A tal-Kodiċi.

**49.** Fis-subartikolu (1) tal-artikolu 360A tal-Kodiċi minflok il-kliem "jew minn impjegat jew uffiċjal ta' korp magħqud imwaqqaf b'ligi", għandhom jidhlu l-kliem "jew minn impjegat jew uffiċjal ta' korp magħqud imwaqqaf b'ligi jew minn rappreżentant ta' xi intrapriża, kif imfissra fl-artikolu 2 tal-Att biex jirregola Komunikazzjonijiet Elettronici".

Żjieda ta' artikolu ġdid mal-Kodiċi.

**50.** Minnufih wara l-artikolu 360A tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

"Sentenzi mogħtija *in absentia*."

360B. (1) Minkejja d-disposizzjonijiet l-oħra ta' dan il-Kodiċi jew ta' kull ligi oħra, id-disposizzjonijiet ta' dan l-artikolu għandhom japplikaw għal reati li jaqgħu taħt il-ġurisdizzjoni tal-Qorti tal-Maġistrati bhala qorti ta' Ġudikatura Kriminali taħt l-artikolu 370(1).

(2) Meta persuna, wara li tkun ġiet akkużata b'reat imsemmi fis-subartikolu (1) u wara li tkun ġiet ippreżentata b'taħrika, tonqos milli tidher personalment quddiem il-qorti, hija għandha titqies illi tkun tat il-kunsens tagħha sabiex titmexxa l-kawża fin-nuqqas tagħha u, il-qorti għandha tipproċedi bis-smiġh fin-nuqqas tal-persuna akkużata u għandha minn hemm 'il quddiem tipproċedi biex tagħti s-sentenza:

Izda kull persuna akkużata kif imsemmi qabel tista', minflok tidher quddiem il-Qorti tal-Maġistrati, tippreżenta fir-reġistru ta' dak il-qorti, rappreżentazzjonijiet bil-miktub u, jew dikjarazzjoni tal-fatti tal-kawża konfermati b'ġurament li jikkontestaw l-akkuża kontriha, u l-qorti għandha, qabel ma tiddeċiedi fuq il-kawża, tqies dawn ir-rappreżentazzjonijiet u, jew id-dikjarazzjoni daqslikieku saru *viva voce* quddiem l-imsemmija qorti.

(3) Sentenza mogħtija skont dan l-artikolu għandha tkun soġġetta għal appell.

(4) Meta ma jiġix pprezentat appell, is-sentenza mogħtija skont dan l-artikolu għandha tiġi notifikata lill-akkużat li, fi żmien sebat ijiem ta' xogħol ta' servizz, għandu jkollu d-dritt ulterjuri li jappella mis-sentenza u d-disposizzjonijiet ta' dan il-Kodiċi li jirrigwardaw l-appelli għandhom, bla ħsara għad-disposizzjonijiet ta' dan l-artikolu, *mutatis mutandis*, japplikaw:

Izda ma jkun hemm l-ebda dritt għal appell jekk jintwera li jeżistu xi waħda miċ-ċirkostanzi li ġejjin:

(a) l-akkużat kif fiż-żmien dovut:

(i) ġie mħarrek personalment u b'hekk ġie informat bid-data skedata u l-post fejn ser tinstema l-kawża, li rriżultat fl-għotja tas-sentenza, u b'xi mezz ieħor fil-fatt irċieva informazzjoni uffiċjali tad-data skedata u l-post fejn ser tinstema dik l-kawża b'dak il-mod illi inekwivokament ġie stabbilit li kien jaf bil-kawża skedata; u

(ii) ġie informat li s-sentenza jista' jkun tingħata jekk ma jidhirx għall-kawża; u

(b) l-akkużat, li jkun jaf bil-kawża skedata, ta mandat lil avukat mahtur minnu sabiex jiddefendih fil-kawża tiegħu, u li l-imsemmi avukat tabilhaqq iddefenda lill-akkużat fil-kawża.

(5) It-taħrika maħruġa taht dan l-artikolu għandu wkoll ikun fiha twissija li jekk il-persuna ma tidhirx, il-persuna mħarrka għandha titqies illi tat il-kunsens tagħha sabiex titmexxa l-kawża fin-nuqqas tagħha.

(6) Meta sentenza tiġi notifikata kif provdut taht is-subartikolu (4) l-akkużat għandu wkoll jiġi informat bid-dritt ulterjuri tiegħu għall-appell skont l-imsemmi subartikolu."

C 392

Sostituzzjoni  
tal-artikolu  
392B tal-  
Kodiċi.

**51.** L-artikolu 392B tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

"Ammissjoni  
ta' htija.

**392B.** (1) Fil-każ li l-akkużat, bi twegiba għall-mistoqsija skont l-artikolu 392(1)(b) u fi kwalunkwe stadju tal-proċeduri, jistqarr li hu ħati tar-reat li bih ġie akkużat u l-imsemmi reat ikun soġġett għal piena ta' aktar minn għaxar snin prigunerija, il-qorti għandha twissieh b'mod l-aktar solenni fuq il-konsegwenzi legali ta' dik it-twegiba u tagħtih ftit taż-żmien biex jerga' lura minnha. Bla ħsara għad-disposizzjonijiet tas-subartikolu (3) tal-artikolu 392A u minkejja kull disposizzjoni oħra ta' dan il-Kodiċi jew ta' kull liġi oħra, jekk l-akkużat jibqa' jtenni fit-twegiba tiegħu li hu ħati tar-reat li bih ikun akkużat, l-qorti għandha, wara li tkun giet registrata l-ammissjoni ta' htija:

(a) tordna li l-atti tal-kumpilazzjoni, flimkien mal-oġġetti li jkollhom x'jaqsmu mal-każ jiġu mibgħuta, fi żmien tliet ijiem ta' xogħol, lill-Avukat Ġenerali; u

(b) tinnotifika lir-Registratur tal-Qorti Kriminali li saret ammissjoni ta' htija.

(2) L-Avukat Ġenerali għandu ż-żmien ta' xahar biex jipprezenta nota fil-Qorti Kriminali li biha jiddikjara illi l-akkuża li tkun saret quddiem il-Qorti tal-Maġistrati bħala qorti istruttorja u li għaliha jkun ammetta l-akkużat għandha titqies bħala att ta' akkuża, b'dana illi din id-dikjarazzjoni ma għandha tagħti lok għal ebda nullità jew difett ieħor fil-proċeduri minkejja d-disposizzjonijiet l-oħra ta' dan il-Kodiċi jew ta' kull liġi oħra.

(3) Meta l-Qorti Kriminali tiġi notifikata mill-Qorti tal-Maġistrati bħala qorti istruttorja dwar ammissjoni ta' htija skont il-paragrafu (b) tas-subartikolu (1), il-Qorti Kriminali għandha fi żmien xahrejn mid-data tan-notifika tiffissa data għas-smigh.

(4) Il-Qorti Kriminali għandha, *ex officio*, jew wara talba mill-Avukat Ġenerali jew mill-akkużat, tisma' dawk il-provi li jidhrilha li huma rilevanti għall-fini ta' piena, u, wara li tisma' s-sottomissjonijiet dwar il-piena mill-Avukat Ġenerali u mill-akkużat, tgħaddi 'l quddiem biex tagħti lill-akkużat dik is-sentenza li għandha tinghata skont il-liġi kontra l-akkużat li jinsab ħati tar-reat u tordna li l-atti flimkien ma' kopja tas-sentenza jiġu mibgħuta lill-Avukat Ġenerali fi żmien sitt ijiem tax-xogħol.

(5) (a) L-akkużat u l-Avukat Ġenerali jistgħu jitolbu lill-Qorti Kriminali li tapplika sanzjoni jew miżura jew, meta jkun hekk provdut bil-liġi, kombinazzjoni ta' sanzjonijiet jew miżuri, tax-xorta u l-kwantita' miftehma bejniethom u li dwarhom l-akkużat ikun jista' jinghata sentenza.

(b) Jekk il-Qorti tkun sodisfatta li s-sanzjoni jew miżura, jew il-kombinazzjoni ta' sanzjonijiet jew miżuri mitluba kif provdut fil-paragrafu (a) ikunu tali li kien ikun legittimu illi hija timponi masssejben ta' htija għar-reat li dwaru l-akkużat ikun ammetta l-htija, il-Qorti għandha tgħaddi biex tagħti s-sentenza lilha ndikata mill-partijiet fejn tiddikjara fid-deċiżjoni tagħha li s-sentenza li tkun qeghdha tinghata tkun qeghdha hekk tiġi mogħtija fuq talba tal-partijiet.

(ċ) Id-disposizzjonijiet tas-subartikoli (3), (4) u (5) tal-artikolu 453A għandhom japplikaw *mutatis mutandis* għal dan is-subartikolu.

(6) Minkejja xi disposizzjonijiet oħra ta' dan il-Kodiċi jew ta' kull liġi oħra, ammissjoni magħmula u registrata skont id-disposizzjonijiet tas-subartikolu (1) ma tkunx tista' tiġi revokata jew irtirata.

(7) Meta l-Qorti Kriminali jidhrilha li ma tkunx giet osservata xi formalità skont dan l-artikolu jew ikun hemm xi difett iehor fil-proċeduri, il-Qorti Kriminali għandha tibgħat lura l-atti lill-Qorti tal-Magistrati bhala qorti istrutturja sabiex terġa' tibda l-kumpilazzjoni mill-ġdid."

Żjieda ta' artikolu ġdid mal-Kodiċi.

**52.** Minnufih wara l-artikolu 392B tal-Kodiċi għandu jizjed l-artikolu ġdid li ġej:

"Hlas ta' spejjeż meta ssir ammissjoni ta' htija.

392Ċ. (1) Meta l-akkużat jistqarr li huwa ħati, kemm waqt l-eżami jew f'kull stadju tal-proċeduri, il-qorti għandha, qabel ma tipproċedi biex tagħti s-sentenza tagħha, taċċerta jekk atti dwar l-*in genere* jew *reperiti* jkunu saru u jekk dawn ikunu saru, il-qorti għandha, meta tagħti s-sentenza jew f'kull ordni iehor wara, tikkundanna l-ħati jew il-ħatjin, ilkoll flimkien *in solidum* jew kull wiehed għalih, għall-hlas, lir-registratur, tal-ispejjeż kollha jew ta' parti mill-ispejjeż li jkollhom x'jaqsmu mal-ħatra ta' esperti jew periti fil-proċeduri, inklużi dawk tal-esperti li jkunu ġew maħtura fl-istadju tal-proċess verbal tal-inkjesta, f'dak iż-żmien u f'dak l-ammont bħal ma jkun gie stabbilit fis-sentenza jew fl-ordni:

Iżda meta l-imsemmija spejjeż ikunu għandhom ma ġewx stabbiliti fiż-żmien li tkun ingħat is-sentenza jew fl-eventwalità li xi espert jew perit fil-proċeduri jkun għadu ma pprezentax ir-rapport tiegħu jew il-proċess verbal ikun għandu ma ġiex magħluq, ir-Registatur għandu d-dritt li jstabbilixxi l-ispejjeż, u sabiex jipproċedi biex jiġbor l-ispejjeż lura, kollha jew parti minnhom, mill-persuna jew mill-persuni kkundannati, kif jiġi ordnat mill-qorti fis-sentenza tagħha:

Iżda wkoll il-Qorti għandha, qabel ma tghaddi biex tagħti s-sentenza kif imsemmi qabel u biex tagħti ordni skont l-artikolu 23B, taċċerta jekk saritx ordni kif imsemmi fl-artikoli 23A u 23D, u jekk tkun saret, id-dispożizzjonijiet ta' dan is-subartikolu għandhom, *mutatis mutandis*, japplikaw għal kull ordni bħal din.

(2) Id-dispożizzjonijiet tal-artikolu 533 għandhom, *mutatis mutandis*, japplikaw għal kull ordni magħmula taht dan l-artikolu."

**53.** Fis-subartikolu (1) tal-artikolu 397 tal-Kodiċi, minflok il-kliem "esperimenti, u kull haġ'ohra", għandhom jidhlu l-kliem "esperimenti, it-tehid ta' xi kampjun u kull miżura jew haġa ohra".

Emenda tal-artikolu 397 tal-Kodiċi.

**54.** L-artikolu 399 tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 399 tal-Kodiċi.

"399. (1) Meta l-qorti tiddeċiedi li l-eżami ta' xi xhud jew li xi proċess ieħor fl-inkjesta minn xi awtorità barra minn Malta jkun mehtieg b'mod indispensabbli, l-ittra rogatorja għal għajnuna legali u d-deċiżjoni tal-qorti għandhom, fi żmien tliet ijiem tax-xogħol, jiġu notifikati lill-Avukat Ġenerali li mbagħad jista', fi żmien hamest ijiem tax-xogħol, jagħmel kull sottomissjoni bil-miktub skont ma hu jkun jidhirlu mehtieg.

(2) L-imputat jista', mhux aktar tard minn erbat ijiem tax-xogħol minn dik id-deċiżjoni, jissottometti talba addizzjonali għall-eżami ta' xhud jew ta' xi proċess ieħor tal-inkjesta, u jahtar persuna ohra li tidher għalih fl-eżami jew fil-proċess. Dan iż-żmien jista', għal raġuni tajba, jiġi mġedded:

Iżda dak iż-żmien hekk imġedded ma jisax jeċċedi tletin ġurnata mid-data tad-deċiżjoni.

(3) Il-qorti għandha tordna t-trasmissjoni tat-talba għal għajnuna legali lill-awtorità barra minn Malta fi żmien tliet ijiem tax-xogħol minn meta jiskadi l-perjodu msemmi fis-subartikolu (2).

(4) Il-Qorti Kriminali tkun kompetenti li tordna t-trasmissjoni tat-talba għal għajnuna legali lill-awtorità barranija wara li jsir rikors mill-Avukat Ġenerali jew mill-imputat meta jiskadi l-perjodu ta' żmien imsemmi fis-subartikolu (3).

(5) Id-dispożizzjonijiet tal-artikolu 622B tal-Kodiċi ta'

Organizzazzjoni u Proċedura Ċivili li jipprovdu għall-irrekordjar ta' xhieda fuq tejp jew fuq video jew b'mezzi oħra għandhom japplikaw għal talba għall-eżami ta' xi xhud taħt dan l-artikolu.

(6) Id-dispożizzjonijiet tal-artikoli 618 u 619 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw għall-finjiet ta' dan l-artikolu:

Izda fejn ikun jeżisti xi trattat, konvenzjoni, patt jew ftehim, bejn Malta u pajjiż ieħor jew li jkun japplika għaż-żewġ pajjiżi jew li fih iż-żewġ pajjiżi jkunu parti, it-talba għandha ssir u tiġi trasmessa skont l-imsemmi trattat, konvenzjoni, patt jew ftehim.

(7) Għall-finjiet ta' dan l-artikolu, l-ittra rogatorja li biha ssir it-talba għandu jkollha dan li ġej:

(a) l-għan ta' jew ir-raġuni għal dik it-talba;

(b) id-dettalji tal-persuna jew persuni msemmija fit-talba inkluż, fejn possibbli, l-indirizz, id-data tat-twelid u n-nazzjonalità;

(ċ) deskrizzjoni tar-reati li l-persuna qed tiġi akkużata bihom u l-piena li tista' tehel għal dak ir-reat;

(d) rapport fil-qasir tal-fatti li wasslu għat-talba;  
u

(e) kopja tal-leġislazzjoni rilevanti li tikkriminalizza l-imġiba attribwita lill-imputat u li tagħti informazzjoni dwar ir-reat, il-piena u d-drittijiet li persuna tista' tkun mogħtija."

Emenda tal-artikolu 402 tal-Kodiċi.

**55.** Fil-paragrafu (ċ) tas-subartikolu (1) tal-artikolu 402 tal-Kodiċi, minflok il-kliem "l-artikolu 399," għandhom jidhlu l-kliem "l-artikolu 399;" u minnufih wara għandu jżjed dan il-paragrafu ġdid li ġej:

"(d) meta l-qorti taċċetta t-talba li tkun saret skont l-artikolu 46(3) tal-Kostituzzjoni."

Emenda tal-artikolu 405 tal-Kodiċi.

**56.** Minnufih wara s-subartikolu (7) tal-artikolu 405 tal-Kodiċi, għandu jżjed is-subartikolu ġdid li ġej:

"(8) Il-qorti għandha tmexxi sabiex tiegħu kull azzjoni jew miżura oħra li għandha x'taqsam mal-kumpilazzjoni kif l-



Avukat Ġeneral jista' jitlob bil-miktub."

**57.** Minnufih wara s-subparagrafu (vii) tal-paragrafu (b) tas-subartikolu (1) tal-artikolu 413 tal-Kodiċi, għandu jiżdied is-subparagrafu ġdid li ġej:

Emenda tal-artikolu 413 tal-Kodiċi.

"(viii) id-deċiżjoni tal-qorti inferjuri hija nulla minhabba nuqqas ta' formalità jew minhabba htigiet ta' proċedura,".

**58.** Fis-subartikolu (1) tal-artikolu 435AA tal-Kodiċi il-kliem "permezz ta' xi kont wieħed jew aktar tal-persuna suspettata." għandhom jiġu sostitwiti bil-kliem "permezz ta' xi kont wieħed jew aktar tal-persuna suspettata, jew permezz ta' kont wieħed jew aktar li jkun hemm suspett li intużaw fit-twettiq tar-reat jew li jistgħu jipprovdu informazzjoni dwar ir-reat jew iċ-ċirkostanzi tiegħu, kemm qabel, matul jew wara t-twettiq tar-reat, inkluż xi kontijiet oħra f'isem il-persuni ġuridiċi."

Emenda tal-artikolu 435AA tal-Kodiċi.

**59.** Fis-subartikolu (2) tal-artikolu 435BA tal-Kodiċi minnufih wara l-kliem "435AA" għandhom jidhlu l-kliem "permezz ta' xi kont wieħed jew aktar tal-persuna suspettata, jew permezz ta' kont wieħed jew aktar li jkun hemm suspett li intużaw fit-twettiq tar-reat jew li jistgħu jipprovdu informazzjoni dwar ir-reat jew iċ-ċirkostanzi tiegħu, kemm qabel, matul jew wara t-twettiq tar-reat, inkluż xi kontijiet oħra f'isem il-persuni ġuridiċi."

Emenda tal-artikolu 435BA tal-Kodiċi.

**60.** L-artikolu 522 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 522 tal-Kodiċi.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "meta jinsab hati, il-piena ta' priġunerija għal mhux iżjed minn tliet xhur" għandhom jidhlu l-kliem "meta jinsab hati, multa ta' mhux inqas minn elfejn u tliet mitt euro (€2,300) iżda mhux iżjed minn erbat elef u sitt mitt euro (€4,600) jew priġunerija għal mhux iżjed minn tliet xhur, jew dik il-multa u priġunerija flimkien"; u

(b) fil-verżjoni bl-Ingliż tas-subartikolu (4) tiegħu, minflok il-kliem "but shall be liable to the punishment of a fine (*multa*)" għandhom jidhlu l-kliem "but shall be liable, on conviction, to the punishment of a fine (*multa*)".

**61.** L-artikolu 525 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 525 tal-Kodiċi.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "u tal-artikolu 397(5)" għandhom jidhlu l-kliem "tal-artikolu 397(5) u tal-artikolu 399"; u

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan

li ġej:

"(3) Id-disposizzjonijiet tal-artikolu 397, tas-subartikoli (2) sa (4), it-tnejn inklużi, tal-artikoli 467 u 623 għandhom, *mutatis mutandis*, iġġoddu wkoll għall-Qorti tal-Maġistrati fil-kazijiet ta' kompetenza tagħha bhala qorti ta' ġudikatura kriminali taht xi dispożizzjoniet oħra ta' dan il-Kodiċi jew ta' kull liġi oħra."

Żjieda ta' artikolu ġdid mal-Kodiċi.

**62.** Minnufih wara l-artikolu 531 għandu jiżdied l-artikolu ġdid li ġej:

"Notifika sussegwenti.

531A. Fi proċeduri quddiem qorti ta' ġustizzja kriminali, meta l-imputat jew l-akkużat, wara li jkunu ġew notifikati bid-data tal-ewwel smiġh skont id-disposizzjonijiet ta' dan il-Kodiċi ikunu dehru għall-imsemmi smiġh, l-ebda notifika sussegwenti ta' xi data għandha bżonn tingħata lil każ li jkun stabbilit għas-smiġh kif intqal qabel jew li jkun diġà beda jinstema' jiġi diferit u għandha tkun ir-responsabbiltà tal-imputat jew l-akkużat li jivverifikaw dik id-data:

Iżda din id-dispożizzjoni għandha tapplika wkoll fejn l-imputat jew l-akkużat, minkejja ma jkunux ġew notifikati skont id-dispożizzjonijiet ta' dan il-Kodiċi, għandhom jidhru għas-smiġh."

Emenda tal-artikolu 542 tal-Kodiċi.

**63.** Fl-artikolu 542 tal-Kodiċi, minflok il-kliem "l-aħwa subien għall-aħwa bniet jew bil-maqlub," għandhom jidhru l-kliem "wiehed jew waħda mit-tfal f'isem l-iehor jew l-oħra,".

Emenda tal-artikolu 548 tal-Kodiċi.

**64.** L-artikolu 548 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) l-artikolu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (1) tal-istess artikolu;

(b) fit-tielet proviso għas-subartikolu (1) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "l-fatti rilevanti." għandhom jidhru l-kliem "l-fatti rilevanti, meta r-reat li għandu jiġi investigat hu wiehed li hu punibbli bi piena massima ta' prigunerija għal seba' snin jew aktar."; u

(ċ) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) L-esperti maħtura fl-inkjesta sabiex jiġbru u jeżaminaw id-*data* dattiloskopika u l-kampjuni biex jiġi analizzat id-DNA uman għandhom jibagħtu lill-Pulizija Eżekuttiva kopji tad-*data* dattiloskopika u tal-profil tad-DNA flimkien ma' kull informazzjoni oħra li għandha x'taqsam mad-*data* dattiloskopika u mal-profil tad-DNA.

Għall-finijiet ta' dan l-artikolu:

"*data* dattiloskopika" tfisser immaġini ta' marki tas-swaba, immaġini ta' *latents* ta' marki tas-swaba, marki tal-palma tal-id, *latents* ta' marki tal-palma tal-id, marki tal-palma tal-id ta' bniedem qed jikteb u *latents* ta' marki tal-palma tal-id ta' bniedem qed jikteb; u

"profil tad-DNA" tfisser kodiċi ta' ittra jew numru li jirrapreżenta grupp ta' karatteristiċi ta' identifikazzjoni tal-parti li ma tiġix kodifikata ta' kampjun ta' DNA uman analizzat, jiġifieri l-istruttura molekulari partikolari fil-varji postijiet tad-DNA (*loci*).".

65. L-artikolu 550 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 550 tal-Kodiċi.

(a) fis-subartikolu (1) tiegħu:

(i) minnufih wara l-kliem "persuni oħra li jkunu deħru fl-aċċess" għandhom jidhlu l-kliem "jew xehdu matul l-inkjesta Maġisterjali";

(ii) il-kliem "fl-inkjesta" għandhom jiġu mhassra; u

(iii) minnufih wara l-kliem "bħala qorti istruttorja" għandhom jidhlu l-kliem "matul il-kumpilazzjoni";

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) Madankollu matul iż-żmien għall-egħluq tal-kumpilazzjoni msemmi fl-artikolu 401(1) sal-mument li l-qorti tiddeċiedi jekk ikunx hemm jew ma jkunx hemm raġunijiet bizżejjed biex l-imputat jitqiegħed taħt att ta' akkuża kif imsemmi fl-artikolu 401(2), il-Pulizija tkun tista' ġġib, bil-permess speċjali tal-Qorti tal-Maġistrati bħala qorti istruttorja, lil kull waħda mill-persuni msemmija fis-subartikolu (1) biex tagħti xiehda fil-kumpilazzjoni quddiem dik l-istess qorti fuq materji

speċifiċi debitament imsemmija minn dik il-qorti fil-permess speċjali tagħha; b'dan li wara l-egħluq tal-kumpilazzjoni skont l-artikolu 402(1) u wara li l-qorti tiddeċiedi jekk ikunx hemm jew ma jkunx hemm raġunijiet biżżejjed biex l-imputat jitqiegħed taħt att ta' akkuża kif imsemmi fl-artikolu 401(2), l-Avukat Ġenerali jkun jista' jgħib lil kull min irid minn dawk il-persuni skont id-dispożizzjonijiet tal-artikolu 405 sabiex iwiegħbu għal materji speċifiċi indikati mill-Avukat Ġenerali fit-talba bil-miktub tiegħu. Il-persuna mixlija tkun tista' wkoll iġġib lil kull min trid minn dawk il-persuni bil-għan li jsirilha kontro-eżami."

**66.** Fis-subartikolu (1) tal-artikolu 605 tal-Kodiċi, minflok il-kliem "Il-Kummissarju tal-Pulizija jew ir-rappreżentant tiegħu, Maġistrat, l-Avukat Ġenerali jew ir-rappreżentant tiegħu, il-President tal-Kamra tal-Avukati u l-President tal-Kamra tal-Prokuraturi Legali għandhom, darbtejn fis-sena, jagħmlu, mill-aħjar li jafu -" għandhom jidhlu l-kliem "Il-Kummissarju tal-Pulizija jew ir-rappreżentant tiegħu, il-Maġistrat Anzjan, l-Avukat Ġenerali jew ir-rappreżentant tiegħu, il-President tal-Kamra tal-Avukati u l-President tal-Kamra tal-Prokuraturi Legali għandhom, darbtejn fis-sena, jattendu għal-laqgħa hekk imsejja mid-Direttur, Qrati u Tribunali Kriminali sabiex, jagħmlu, mill-aħjar li jafu -".

**67.** Minnufih wara l-artikolu 647B tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Kodiċi.

"Koperazzjoni transkonfini, partikolarment fil-ġlieda kontra t-terroriżmu u l-kriminalità transkonfini.

647C. (1) Meta l-Avukat Ġenerali jirċievi talba magħmula minn awtorità ġudizzjarja, prosekuttriċi jew amministrattiva ta' xi post barra minn Malta jew minn qorti internazzjonali -

(a) għat-teħid u l-forniment ta' *data* dattiloskopika; jew

(b) għat-teħid u l-eżami ta' kampjun mhux intimu; jew

(ċ) għall-profil tad-DNA ta' persuna suspettata f'dak il-post li tkun wettqet reat rilevanti jew ta' persuna akkużata, fi proċeduri quddiem il-qrati ta' dak il-post jew quddiem tribunal internazzjonali, li tkun wettqet reat rilevanti,

l-Avukat Ġenerali għandu jikkomunika t-talba lil Maġistrat li għandu, malli jirċievi t-talba, jordna l-arrest tal-persuna rikjesta u d-dispożizzjonijiet tal-artikolu 355AV(c) għandhom, *mutatis mutandis*, jgħoddu fl-eżekuzzjoni tat-talba komunikata skont dan l-artikolu.

(2) Il-Maġistrat għandu jittrasmetti l-imsemmija *data*, kampjun jew profil, flimkien ma' kull rapport jew riżultat tal-eżami, lill-Avukat Ġenerali.

(3) Għall-finijiet ta' dan l-artikolu l-frazzjiet "profil tad-DNA" u "*data* dattiloskopika" għandu jkollhom it-tifsira kif rispettivament mogħtija lilhom fl-artikolu 548; "reat rilevanti" għandu jkollha t-tifsira mogħtija lilha fl-artikolu 435D.

(4) Id-dispożizzjonijiet tal-artikolu 649(2) u (5) għandhom, *mutatis mutandis*, jgħoddu għal talba magħmula skont dan l-artikolu."

**68.** L-artikolu 673 tal-Kodici għandu jiġi emendat kif ġej:

Emenda tal-artikolu 673 tal-Kodici.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "r-rikors ma għandux jintlaqa' meta l-Avukat Ġenerali joġġezzjona għar-rikors." għandhom jidhlu l-kliem "r-rikors ma għandux jintlaqa' meta l-Avukat Ġenerali joġġezzjona għar-rikors:", u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Izda, meta l-Avukat Ġenerali joġġezzjona għar-rikors, il-qorti tista' timponi fuq l-imputat li l-ispejjeż għad-depożitu u l-manutenzjoni tal-oġġett, miżmum mir-Registratur, li jkollu x'jaqsam mal-proċeduri kriminali jew mad-delitt, ikunu fuq l-imputat."; u

(b) minnufih wara s-subartikolu (2) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(2A) Minkejja d-dispożizzjonijiet tas-subartikolu (2), meta l-oġġett li jkollu x'jaqsam mal-proċeduri kriminali jew mad-delitt ikun miżmum mir-Registratur, is-sid ta' dak l-oġġett jista' jitlob lill-qorti biex jagħmel dawk ix-xogħlijiet ta' manutenzjoni fuq l-oġġett kif ikunu meħtieġa; jekk is-sid tal-oġġett ma jagħmilx it-talba msemmija f'dan is-subartikolu, jew, wara li jkun għamel it-talba, u wara li t-talba tkun intlaqgħat mill-

C 402

qorti, ma jagħmilx dawk ix-xogħlijiet ta' manutenzjoni, ir-responsabbiltà għal kull telf jew hsarat mgarrba minn dak l-oġġett taq' fuq l-imsemmi sid."

Emenda tal-artikolu 676 tal-Kodiċi.

**69.** Fl-artikolu 676 tal-Kodiċi, minflok il-kliem "ta' dan il-Kodiċi" għandhom jidhlu l-kliem "ta' dan il-Kodiċi jew ta' liġi oħra".

Emenda tal-artikolu 679 tal-Kodiċi.

**70.** Fl-artikolu 679 tal-Kodiċi, minflok il-kliem "ta' dan il-Kodiċi" għandhom jidhlu l-kliem "ta' dan il-Kodiċi jew ta' liġi oħra".

Żjieda ta' artikolu ġdid mal-Kodiċi.

**71.** Minnufih wara l-artikolu 685 tal-Kodiċi għandu jizjed l-artikolu ġdid li ġej:

"Tifsira ta' proprjetà.

685A. Għall-fini ta' dan it-Titolu "proprjetà" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 23B."

Żjieda ta' artikolu ġdid mal-Kodiċi.

**72.** Minnufih wara l-artikolu 698 tal-Kodiċi għandu jizjed l-artikolu ġdid li ġej:

"Setgħat biex isiru regolamenti.

699. Minkejja d-dispożizzjonijiet oħra ta' dan il-Kodiċi jew ta' xi liġi oħra, il-Ministru jista' jagħmel regolamenti biex jirregola l-metodi tal-prezentata tal-atti taħt dan il-Kodiċi."

## TAQSIMA II

### Emendi għall-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha

Emenda tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha. Kap. 31.

**73.** Din it-Taqsima temenda l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u għandha tinqara u tiftiehem haġa waħda mal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejha "l-Ordinanza".

Żjieda ta' artikoli godda mal-Ordinanza.

**74.** Minnufih wara l-artikolu 40A tal-Ordinanza għandhom jizjed l-artikoli godda li ġejjin:

"Reati li għandhom x'jaqsmu mal-pjanta Khat.

40B. (1) Kull persuna li -  
 (a) tikkoltiva il-pjanta Khat; jew  
 (b) timporta jew iddaħħal fi, jew tesporta minn, Malta l-pjanta Khat; jew

(ċ) ikollha fil-pussess tagħha (hlief waqt it-tranzitu f'Malta jew fl-ibħra territorjali tagħha) il-pjanta Khat fl-intier tagħha jew xi porzjon minnha; jew

(d) tbiegħ jew tittraffika il-pjanta Khat fl-intier tagħha jew xi porzjon minnha; jew

(e) tassoċja ruħha ma' xi persuna jew persuna oħra f'Malta jew barra minn Malta sabiex tbiegħ jew tittraffika l-pjanta Khat f'Malta kontra d-disposizzjonijiet ta' dan l-artikolu jew li tippromovi, tikkostitwixxi, torganizza jew tiffinanzja l-assoċjazzjoni,

tkun hatja ta' reat kontra din l-Ordinanza:

Iżda t-tifsira "jittraffika" f'dan l-artikolu għandu jkollha l-istess tifsira mogħti lilha bl-artikolu 120A(1B).

(2) Kull persuna akkużata b'reat kontra dan l-artikolu għandha titressaq jew quddiem il-Qorti Kriminali jew quddiem il-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex), skont kif jordna l-Avukat Ġenerali, u jekk tinsab hatja tehel, għal kull reat -

(a) meta tinsab hatja mill-Qorti Kriminali prigunerija għal żmien ta' mhux inqas minn tnax-il xahar iżda mhux iżjed minn għaxar snin u multa ta' mhux inqas minn erba' mija u ħamsa u sittin euro u sebgħa u tmenin ċenteżmu (465.87) iżda mhux iżjed minn tlieta u għoxrin elf mitejn u tlieta u disgħin euro u tlieta u sebgħin ċenteżmu (23,293.73); jew

(b) meta tinsab hatja mill-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex) prigunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn tnax-il xahar, jew multa ta' mhux inqas minn erba' mija u hamsa u sittin euro u sebgħa u tmenin ċenteżmu (465.87) iżda mhux iżjed minn elfejn tliet mija u disgħa u għoxrin euro u sebgħa u tletin ċenteżmu (2,329.37) jew dik il-prigunerija u multa flimkien.

Setgħat tal-Ministru biex jemenda r-Raba' Skeda.

40Ċ. Il-Ministru responsabbli għall-Ġustizzja jista', wara konsultazzjoni mal-Ministru responsabbli għall-Pulizija u mal-Avukat Ġenerali, jemenda r-Raba' Skeda ma' din l-Ordinanza."

Emenda tal-artikolu 120A tal-Ordinanza.

**75.** L-artikolu 120A tal-Ordinanza għandu jiġi emendat kif ġej:

(a) minnufih wara s-subartikolu (2D) tiegħu għandu jizjed is-subartikolu ġdid li ġej:

"(2E) (a) sabiex tingħata direzzjoni skont is-subartikolu (2), l-Avukat Ġenerali għandu debitament jikkunsidra l-linji gwida inklużi fir-Raba' Skeda ta' din l-Ordinanza;

(b) meta l-Avukat Ġenerali jkun ordna li l-persuna akkużata tiġi ġgudikata fil-Qorti Kriminali skont is-subartikolu (2), meta tintemm l-inkjesta, f'każ li l-Qorti tal-Maġistrati bħala Qorti Istrutturja tiddeciedi li hemm raġunijiet biżżejjed biex l-akkużat jitqiegħed taħt att ta' akkuża, l-akkużat jista' permezz ta' rikors ipprezentat quddiem il-Qorti Kriminali fi żmien sebat ijiem mit-tmiem tal-inkjesta, jitlob lill-imsemmija qorti sabiex tordna li jiġi ġgudikat quddiem il-Qorti tal-Maġistrati u l-Qorti Kriminali għandha, wara li tkun ordnat in-notifika tar-rikors lill-Avukat Ġenerali u tagħtih sebat ijiem biex iwieġeb lura u wara li tkun semgħet is-sottomissjonijiet orali mingħand l-akkużat u l-Avukat Ġenerali, jekk tqis li dan huwa neċessarju, tiddeciedi quddiem liema qorti l-akkużat għandu jiġi ġgudikat u l-akkużat għandu jiġi ġgudikat skont id-deċizzjoni tal-Qorti Kriminali:

Iżda rikors skont dan il-paragrafu jista' biss jiġi ipprezentat darba matul il-kors ta' kull proċedura:

Iżda wkoll persuni li, fid-data tad-dhul fis-seħh ta' dan is-subartikolu, ikunu qed jistennew kawża fil-Qorti



Kriminali wara ordni mogħtija skont is-subartikolu (2) jista', minkejja id-dispożizzjonijiet l-oħra ta' dan il-paragrafu, jippreżenta rikors quddiem l-imsemmija qorti skont dan il-paragrafu fi żmien xahar mill-imsemmija data.

(2F) Meta, wara li persuna tkun instabet hatja mill-Qorti Kriminali kif previst fil-paragrafu (a) ta' subartikolu (2) wara li tkun ikkunsidrat iċ-ċirkostanzi kollha tal-każ inkluż l-ammont u n-natura tad-droga involuta, il-karattru tal-persuna kkonċernata, in-numru u n-natura ta' kwalunkwe kundanni preċedenti, inkluż kundanni li għalihom saret ordni taħt l-Att dwar il-*Probation* u d-dispożizzjonijiet tar-Raba' Skeda, il-qorti hija tal-opinjoni li l-piena prevista fil-paragrafu (a) tas-subartikolu (2) hija sproporzjonata tista', billi tagħti raġunijiet, tapplika l-piena prevista fil-paragrafu (b) tas-subartikolu (2).".

76. Minnufih wara t-Tielet Skeda tal-Ordinanza għandha tizzied l-Iskeda l-ġdida li ġejja:

Zjieda ta' Skeda  
ġdida mal-  
Ordinanza.

**"IR-RABA SKEDA  
(Artikolu 120A)**

**Linjigwida għall-użu ta' diskrezzjoni skont l-artikolu 120A**

*Dawn il-linjigwida japplikaw għall-persuni kollha  
akkużati tal-età ta' 16 u aktar*

Sabiex tiġi stabbilita l-qorti li fiha persuna akkużata b'reat kontra din l-Ordinanza għandha tiġi ġġudikata, il-ħsara jew il-ħsara potenzjali ikkawżata mir-reat li bih tkun ġiet akkużata għandha tkun il-konsiderazzjoni prinċipali.

Il-kwantità ta' droga hi konsiderazzjoni prinċipali fil-valutazzjoni tal-ħsara. Il-purità ma tkunx neċessarjament meqjusa fl-istadju inizjali iżda tista' tiġi kkunsidrata sabiex jiġi determinat jekk persuna li inizjalment ġiet riferita għall-kawża quddiem il-Qorti Kriminali għandha tiġi riferita għall-kawża quddiem il-Qorti tal-Maġistrati fi stadju aktar tard.

Ir-rwol li l-akkużat kellu fir-reat għandu, jekk informazzjoni biżżejjed tkun disponibbli, wkoll jitqies.

F'dawn il-każijiet għandha issir distinzjoni bejn dawk il-persuni li kellhom rwol prinċipali, rwol sinjifikattiv jew rwol iżgħar fit-tweqqi tar-reat.

*Ir-rwol prinċipali fit-twettiq tar-reat jista' jiġi indikat b'li ġej:*

- li l-akkużat organizza jew ordna x-xiri u l-bejgħ ta' droga fuq skala kummerċjali;
- li l-akkużat kellu konnessjonijiet sostanzjali għal u influwenza sinjifikanti fuq persuni oħra f'ċirku;
- li l-akkużat kellu konnessjonijiet mill-qrib għas-sors originali tad-drogi;
- li l-akkużat għamel qliegħ finanzjarju sostanzjali jew kellu aspettattiva ta' qliegħ finanzjarju sostanzjali;
- li l-akkużat uża negozju legittimu biex jaħbi x-xiri jew il-bejgħ tad-drogi;
- li l-akkużat abbuża mill-pożizzjoni tiegħu ta' fiduċja jew ta' responsabbiltà sinjifikanti fit-twettiq tar-reat, per eżempju meta l-akkużat ikun impjegat tal-ħabs jew professjonista legali jew mediku.

*Ir-rwol sinjifikanti fit-twettiq tar-reat jista' jiġi indikat b'li ġej:*

- li l-akkużat kellu funzjoni operattiva jew manigerjali fiċ-ċirku;
- li l-akkużat involva oħrajn fl-operazzjoni kemm billi eżerċita pressjoni kif ukoll influwenzahom jew b'intimidazzjoni jew b'offerta ta' kumpens;
- li l-akkużat kien motivat bill-prospett ta' gwadann finanzjarju jew vantaġġ ieħor, irrispettivament jekk l-akkużat kienx qed jaġixxi waħdu jew ma' oħrajn;
- li l-akkużat deher li kien jaf u li fehem il-kobor tal-operazzjoni;
- li l-akkużat, li mhix persuna li qed tabbuża minn pożizzjoni ta' fiduċja jew responsabbiltà, forniet id-droga lill-prigunier għall-gwadann iżda mingħajr theddid.

*Ir-rwol iżgħar fit-twettiq tar-reat jista' jiġi indikat b'li ġej:*

- li l-akkużat wettaq rwol limitat fit-twettiq tar-reat u aġixxa taħt id-direzzjoni ta' oħrajn;
- li l-akkużat ġie mqabbad minn oħrajn sabiex iwettaq ir-reat

permezz ta' pressjoni, theddid jew intimidazzjoni;

- li l-akkużat ġie involut fit-twettiq tar-reat minhabba l-ingenwità tiegħu jew minhabba li ġie sfruttat minn oħrajn;
- li l-akkużat ma kellux influwenza fuq dawk ta' fuqu fiċ-ċirku;
- li l-akkużat kellu ftit, jekk kien hemm, għarfien rigward il-kobor tal-operazzjoni;
- li meta jiġu meqjusa ċ-ċirkostanzi kollha jkun raġonevoli li jiġi konkluż illi l-akkużat kien involut fit-twettiq tar-reat sabiex jieħu d-droga biss, għall-użu personali tiegħu;
- li l-akkużat ma għamel l-ebda gwadann finanzjarju mir-reat, per eżempju f'kazijiet li jinvolvu x-xiri komuni ta' kwantità minima mingħajr l-ebda qlieġ jew sabiex titqassam kwantità minima bejn il-ħbieb fuq bażi mhux kummerċjali; Fatturi aggravanti li jirrizultaw mil-liġi għandhom jittieħdu in konsiderazzjoni.

Fatturi aggravanti li jirrizultaw mil-liġi għandhom jiġu meqjusa.

*Fatturi aggravanti oħra li jistgħu jiġu meqjusa jistgħu jinkludu:*

- in-natura sofistikata sabiex tinheba d-droga jew in-natura ta' kwalunkwe attentat biex jiġi evitat il-kxif;
- kull attentat sabiex tinheba jew sabiex tintrema evidenza;
- l-esponiment ta' oħrajn għall-periklu eċċezzjonali bħal meta droga tinqata' b'sustanzi li jagħmlu ħsara;
- il-purità għolja tad-droga;
- li l-akkużat immira postijiet intizi sabiex jalloka persuni vulnerabbli jew ipprova jissupplixxi d-droga lill-minorenni;
- li oħrajn, speċjalment tfal u dawk li ma jabbużawx bid-droga kienu preżenti meta l-akkużat ikkommetta r-reat.

*L-ammont li ġejjin involuti fir-reat, meta l-imsemmija ammonti huma magħrufa, jistgħu jittieħdu bħala indikazzjoni sabiex persuna ma tiġix riferita għall-kawża quddiem il-Qorti Kriminali:*

*ecstasy*: inqas minn 300 pillola;

LSD: inqas minn 300 kwadru

amfetamina: inqas minn 300 gramma

ketamina: inqas minn 150 gramma.

Kull għajjnuna li l-akkużat ikun ta lill-Pulizija jew lill-prosekuzzjoni tista' wkoll tiġi meqjusa."

### TAQSIMA III

#### Emendi għall-Ordinanza dwar iċ-Ċertifikati tal-Kondotta

Emenda tal-Ordinanza dwar iċ-Ċertifikati tal-Kondotta. Kap. 77.

**77.** Din it-Taqsima temenda l-Ordinanza dwar iċ-Ċertifikati tal-Kondotta u għandha tinqara u tiftiehem haġa waħda mal-Ordinanza dwar iċ-Ċertifikati tal-Kondotta, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejja "l-Ordinanza".

Emenda tal-artikolu 2 tal-Ordinanza.

**78.** Fl-artikolu 2 tal-Ordinanza minnufih wara l-kliem "fl-Ewwel Skeda li hawn ma' din l-Ordinanza." għandhom jiżdiedu l-kliem "Kull persuna intitolata għal ċertifikat tal-kondotta skont il-Formula A tista' wkoll titlob dikjarazzjoni skont il-Formula Ċ tal-Ewwel Skeda."

Emenda tal-artikolu 5 tal-Ordinanza.

**79.** Fil-paragrafu (d) tal-artikolu 5 tal-Ordinanza l-kliem "tal-Att dwar il-*Probation*." għandhom jiġu sostitwiti bil-kliem "tal-Att dwar il-*Probation*;" u minnufih wara għandu jiżdied il-paragrafu ġdid li ġej:

"(e) hija sejbien ta' htija ta' persuna mingħajr sejbien ta' htija preċedenti li fir-rigward tagħha, piena li tikkonsisti f'multa ta' mhux aktar mitejn euro ġiet imposta u imħallsa."

Emenda tal-artikolu 8 tal-Ordinanza.

**80.** Fl-artikolu 8 tal-Ordinanza l-kliem "meta tagħti s-sentenza, jew f'kull żmien wara," għandhom jiġu mħassra.

### TAQSIMA IV

#### Emenda tal-Ordinanza dwar il-Mediċini Perikolużi

Emenda tal-Ordinanza dwar il-Mediċini Perikolużi. Kap. 101.

**81.** Din it-Taqsima temenda l-Ordinanza dwar il-Mediċini Perikolużi u għandha tinqara u tinftiehem haġa waħda mal-Ordinanza dwar il-Mediċini Perikolużi, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejja "l-Ordinanza".

Emenda tal-artikolu 22 tal-Ordinanza.

**82.** L-artikolu 22 tal-Ordinanza għandu jiġi emendat kif ġej:

(a) minnufih wara s-subartikolu (2) tiegħu għandhom jiżdiedu s-subartikoli li ġejjin:

"(2A) (a) sabiex tingħata direzzjoni skont is-subartikolu (2), l-Avukat Ġenerali għandu debitament jikkunsidra l-linji gwida inklużi fir-Raba' Skeda ta' din l-Ordinanza;

(b) meta l-Avukat Ġenerali jkun ordna li l-persuna akkużata tiġi ġġudikata fil-Qorti Kriminali skont is-subartikolu (2), meta tintemm l-inkjesta, f'każ li l-Qorti tal-Maġistrati, bhala Qorti Istrutturja tiddeċiedi li hemm raġunijiet biżżejjed biex l-akkużat jitqiegħed taħt att ta' akkuża, l-akkużat jista' permezz ta' rikors ipprezentat quddiem il-Qorti Kriminali fi żmien sebat ijiem mit-tmiem tal-inkjesta, jitlob lill-imsemmija qorti sabiex tordna li huwa jiġi ġġudikat quddiem il-Qorti tal-Maġistrati u l-Qorti Kriminali għandha, wara li tkun ordnat in-notifika tar-rikors lill-Avukat Ġenerali u tagħtih sebat ijiem biex iwieġeb lura u wara li tkun semgħet is-sottomissjonijiet orali mingħand l-akkużat u l-Avukat Ġenerali, jekk tqis li dan huwa neċessarju, tiddeċiedi quddiem liema qorti l-akkużat għandu jiġi ġġudikat u l-akkużat għandu jiġi ġġudikat skont id-deċiżjoni tal-Qorti Kriminali:

Iżda rikors skont dan il-paragrafu jista' biss jiġi ipprezentat darba matul il-kors ta' kull proċedura:

Iżda wkoll persuni li, fid-data tad-dhul fis-seħh ta' dan is-subartikolu, ikunu qed jistennew kawża fil-Qorti Kriminali wara ordni mogħtija skont is-subartikolu (2) jista', minkejja id-dispożizzjonijiet l-oħra ta' dan il-paragrafu, jipprezenta rikors quddiem l-imsemmija qorti skont dan il-paragrafu fi żmien xahar mill-imsemmija data.

(2B) Meta, wara li persuna tkun instabet haġja mill-Qorti Kriminali kif previst fil-paragrafu (a) ta' subartikolu (2) wara li tkun ikkunsidrat iċ-ċirkostanzi kollha tal-każ inkluż l-ammont u n-natura tad-droga involuta, il-karattru tal-persuna kkonċernata, in-numru u n-natura ta' kwalunkwe kundanni preċedenti, inkluż kundanni li għalihom saret ordni taħt l-Att dwar il-*Probation* u d-dispożizzjonijiet tar-Raba' Skeda, il-qorti hija tal-opinjoni li l-piena prevista fil-paragrafu (a) tas-subartikolu (2) hija sproporzjonata tista', billi tagħti raġunijiet, tapplika l-piena prevista fil-paragrafu (b) tas-subartikolu (2).".

**83.** Minnufih wara t-Tielet Skeda tal-Ordinanza għandha tiżdied l-Iskeda l-ġdida li ġejja:

Zjieda ta' Skeda ġdida mal-Ordinanza.

### **"IR-RABA SKEDA**

#### **(Artikolu 22)**

#### **Linjigwida għall-użu ta' diskrezzjoni**

*Dawn il-linjigwida japplikaw għall-persuni kollha akkużati tal-età ta' 16 u aktar*

Sabiex tiġi stabbilita l-qorti li fiha persuna akkużata b'reat kontra din l-Ordinanza għandha tiġi ġġudikata, il-ħsara jew il-ħsara potenzjali ikkawżata mir-reat li bih tkun ġiet akkużata għandha tkun il-konsiderazzjoni prinċipali.

Il-kwantità ta' droga hi konsiderazzjoni prinċipali fil-valutazzjoni tal-ħsara. Il-purità ma tkunx neċessarjament meqjusa fl-istadju inizjali iżda tista' tiġi kkunsidrata sabiex jiġi determinat jekk persuna li inizjalment ġiet riferita għall-kawża quddiem il-Qorti Kriminali għandha tiġi riferita għall-kawża quddiem il-Qorti tal-Maġistrati fi stadju aktar tard. I

Ir-rwol li l-akkużat kellu fir-reat għandu, jekk informazzjoni biżżejjed tkun disponibbli, wkoll jitqies.

F'dawn il-każijiet għandha issir distinzjoni bejn dawk il-persuni li kellhom rwol prinċipali, rwol sinjifikattiv jew rwol iżgħar fit-twettiq tar-reat.

*Ir-rwol prinċipali fit-twettiq tar-reat jista' jiġi indikat b'li ġej:*

- li l-akkużat organizza jew ordna x-xiri u l-bejgħ ta' droga fuq skala kummerċjali;
- li l-akkużat kellu konnessjonijiet sostanzjali għal u influwenza sinjifikanti fuq persuni oħra f'ċirku;
- li l-akkużat kellu konnessjonijiet mill-qrib għas-sors originali tad-drogi;
- li l-akkużat għamel qliegħ finanzjarju sostanzjali jew kellu aspettattiva ta' qliegħ finanzjarju sostanzjali;
- li l-akkużat uża negozju legittimu biex jaħbi x-xiri jew il-bejgħ tad-drogi;
- li l-akkużat abbuża mill-pożizzjoni tiegħu ta' fiduċja jew ta' responsabbiltà sinjifikanti fit-twettiq tar-reat, per eżempju meta l-akkużat ikun impjegat tal-ħabs jew professjonista legali jew mediku.

*Ir-rwol sinjifikanti fit-twettiq tar-reat jista' jiġi indikat b'li ġej:*

- li l-akkużat kellu funzjoni operattiva jew manigerjali fiċ-ċirku;
- li l-akkużat involva oħrajn fl-operazzjoni kemm billi eżerċita pressjoni kif ukoll influwenzahom jew b'intimidazzjoni jew

b'offerta ta' kumpens;

- li l-akkużat kien motivat bill-prospett ta' gwadann finanzjarju jew vantaġġ iehor, irrispettivament jekk l-akkużat kienx qed jaġixxi wahdu jew ma' oħrajn;
- li l-akkużat deher li kien jaf u li fehem il-kobor tal-operazzjoni;
- li l-akkużat, li mhix persuna li qed tabbuża minn pożizzjoni ta' fiduċja jew responsabbiltà, forniet id-droga lill-prigunier għall-gwadann iżda mingħajr theddid.

*Ir-rwol iżgħar fit-twettiq tar-reat jista' jiġi indikat b'li ġej:*

- li l-akkużat wettaq rwol limitat fit-twettiq tar-reat u aġixxa taht id-direzzjoni ta' oħrajn;
- li l-akkużat ġie mqabba minn oħrajn sabiex iwettaq ir-reat permezz ta' pressjoni, theddid jew intimidazzjoni;
- li l-akkużat ġie involut fit-twettiq tar-reat minhabba l-ingenwità tiegħu jew minhabba li ġie sfruttat minn oħrajn;
- li l-akkużat ma kellux influwenza fuq dawk ta' fuqu fiċ-ċirku;
- li l-akkużat kellu ftit, jekk kien hemm, għarfien rigward il-kobor tal-operazzjoni;
- li meta jiġu meqjusa ċ-ċirkostanzi kollha jkun raġonevoli li jiġi konkluż illi l-akkużat kien involut fit-twettiq tar-reat sabiex jieħu d-droga biss, għall-użu personali tiegħu;
- li l-akkużat ma għamel l-ebda gwadann finanzjarju mir-reat, per eżempju f'kazijiet li jinvolvu x-xiri komuni ta' kwantità minima mingħajr l-ebda qliegh jew sabiex titqassam kwantità minima bejn il-ħbieb fuq bażi mhux kummerċjali; Fatturi aggravanti li jirrizultaw mil-liġi għandhom jittieħdu in konsiderazzjoni.

Fatturi aggravanti li jirrizultaw mil-liġi għandhom jiġu meqjusa.

*Fatturi aggravanti oħra li jistgħu jiġu meqjusa jistgħu jinkludu:*

- in-natura sofistikata sabiex tinheba d-droga jew in-natura ta' kwalunkwe attentat biex jiġi evitat il-kxif;
- kull attentat sabiex tinheba jew sabiex tintrema evidenza;

C 412

- l-esponiment ta' oħrajn għall-periklu eċċezzjonali bħal meta droga tinqata' b'sustanzi li jagħmlu ħsara;
- il-purità għolja tad-droga;
- li l-akkużat immira postijiet intiżi sabiex jalloka persuni vulnerabbli jew ipprova jissupplixxi d-droga lill-minorenni;
- li oħrajn, speċjalment tfal u dawk li ma jabbużawx bid-droga kienu preżenti meta l-akkużat ikkommetta r-reat.

*L-ammont li għejjin involuti fir-reat, meta l-imsemmija ammonti huma magħrufa, jistgħu jittieħdu bħala indikazzjoni sabiex persuna ma tiġix riferita għall-kawża quddiem il-Qorti Kriminali:*

herojina u kokajina: anqas minn 100 gramma

*cannabis* (qanneb indjan): anqas minn 100 gramma

Kull għajna li l-akkużat ikun ta lill-Pulizija jew lill-prosekuzzjoni tista' wkoll tiġi meqjusa .".

Emenda tal-artikolu 34 tal-Ordinanza.

**84.** L-artikolu 34 tal-Ordinanza għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu u fis-subartikolu (1) kif enumerat mill-ġdid il-kliem "kull waħda mill-Iskedi li jinsabu ma' din l-Ordinanza." għandhom jiġu sostitwiti bil-kliem "l-Ewwel, it-Tieni u t-Tielet Skeda ma' din l-Ordinanza." u minnufih wara għandu jiżdied is-subartikolu li ġej:

"(2) Il-Ministru responsabbli għall-Ġustizzja jista', wara konsultazzjoni mal-Ministru responsabbli għall-Pulizija u mal-Avukat Ġenerali, jemenda r-Raba' Skeda ma' din l-Ordinanza."

## TAQSIMA V

### Emenda tal-Att dwar il-Bank Ċentrali ta' Malta

Emenda tal-Att dwar il-Bank Ċentrali ta' Malta. Kap. 204.

**85.** Din it-Taqsima temenda l-Att dwar il-Bank Ċentrali ta' Malta għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Bank Ċentrali ta' Malta, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att".

Emenda tal-artikolu 52 tal-Att.

**86.** Fl-artikolu 52 tal-Att il-kliem "dwar l-euro" għandhom jiġu mħassra.

Emenda tal-artikolu 53 tal-Att.

**87.** Fl-artikolu 53 tal-Att il-kliem "u fil-każ meta r-reati jkun u dwar l-euro," għandhom jiġu mħassra.



## TAQSIMA VI

## Emenda tal-Att dwar l-Estradizzjoni

**88.** Din it-Taqsima temenda l-Att dwar l-Estradizzjoni u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Estradizzjoni, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att".

Emenda tal-Att  
dwar l-  
Estradizzjoni.  
Kap. 276.

**89.** Minnufih wara t-tifsira "pajjiż tal-Commonwealth speċifikat" fl-artikolu 2 tal-Att, għandha tiżdied it-tifsira ġdida li ġejja:

Emenda tal-  
artikolu 2 tal-  
Att.

" "persuna akkuzata" tinkludi persuna, li dwarha jinħareġ mandat, li tkun mfittxija f'pajjiż barrani speċifikat għall-finijiet tat-tmexxija ta' prosekuzzjoni kriminali għall-għemil ta' reat imsemmi fil-mandat."

## TAQSIMA VII

Emenda tal-Att kontra *Money Laundering*

**90.** Din it-Taqsima temenda l-Att kontra *Money Laundering* u għandha tinqara u tinftiehem haġa waħda mal-Att kontra *Money Laundering*, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att".

Emenda tal-Att  
kontra  
*Money  
Laundering*.  
Kap. 373.

**91.** Fis-subparagrafu (ii) tal-paragrafu (a) tas-subartikolu (2A) tal-artikolu 3 tal-Att il-kliem "jew dik il-multa u prigunerija flimkien." għandhom jiġu sostitwiti bil-kliem "jew dik il-multa u prigunerija flimkien:" u minnufih wara għandu jiżdied il-proviso għall-paragrafu (a) li ġej:

Emenda tal-  
artikolu 3 tal-  
Att.

"Izda:

(i) sabiex tingħata direzzjoni skont dan is-subartikolu, l-Avukat Ġenerali għandu debitament jikkunsidra l-età tal-ħati, il-kondotta preċedenti tal-ħati, il-valur tal-proprietà li giet *laundered* u ċ-ċirkostanzi l-oħra kollha tar-reat;

(ii) meta l-Avukat Ġenerali jkun ordna li l-persuna akkuzata tiġi ġġudikata fil-Qorti Kriminali skont dan is-subartikolu, meta tintemm l-inkjesta, f'każ li l-Qorti tal-Maġistrati, bħala Qorti Istrutturja tiddeciedi li hemm raġunijiet biżżejjed biex l-akkuzat jitqiegħed taħt att ta' akkuza, l-akkuzat jiġi permezz ta' rikors ipprezentat quddiem il-Qorti Kriminali fi żmien sebat ijiem mit-tmiem tal-inkjesta, jitlob lill-imsemmija qorti sabiex tordna li huwa jiġi ġġudikat quddiem il-Qorti tal-Maġistrati u l-Qorti Kriminali għandha, wara li tkun ordnat in-notifika tar-rikors lill-Avukat Ġenerali u tagħtih sebat

ijjem biex iwieġeb lura u wara li tkun semgħet is-sottomissjonijiet orali mingħand l-akkużat u l-Avukat Ġenerali, jekk tqis li dan huwa neċessarju, tiddeċiedi quddiem liema qorti l-akkużat għandu jiġi ġġudikat u l-akkużat għandu jiġi ġġudikat skont id-deċiżjoni tal-Qorti Kriminali:

Iżda rikors skont dan is-subparagrafu jista' biss jiġi ippreżentat darba matul il-kors ta' kull proċedura:

Iżda wkoll persuni li, fid-data tad-dhul fis-seħh ta' dan is-subparagrafu ikunu qed jistennew kawża fil-Qorti Kriminali wara ordni mogħtija skont dan is-subartikolu jista', minkejja id-dispożizzjonijiet l-oħra ta' dan is-subparagrafu, jippreżenta rikors quddiem l-imsemmija qorti skont dan is-subparagrafu fi żmien xahar mill-imsemmija data;

(iii) meta jinstab ħati l-akkużat jeħel il-piena prevista skont is-subparagrafu (a)(i) ta' dan is-subartikolu u l-qorti kompetenti sabiex tagħti s-sentenza lill-akkużat hija tal-opinjoni li meta tqis l-età tal-ħati, il-kondotta preċedenti tiegħu, il-valur tal-proprjetà *laundered* u ċ-ċirkostanzi kollha l-oħra tar-reat, il-piena prevista fil-paragrafu (a)(i) ta' dan is-subartikolu ma tkunx xierqa, tista', billi tagħti raġunijiet, tapplika l-piena prevista fis-subparagrafu (ii) ta' dan is-subartikolu."

## TAQSIMA VIII

### Emenda tal-Att dwar Lotteriji u Logħob Ieħor

Emenda tal-Att  
Att dwar  
Lotteriji u  
Logħob Ieħor.  
Kap. 438.

**92.** Din it-Taqsima temenda l-Att dwar Lotteriji u Logħob Ieħor għandha tinqara u tintfiehmet ħaġa waħda mal-Att dwar Lotteriji u Logħob Ieħor, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att".

**93.** Fit-tielet proviso tas-subartikolu (1) tal-artikolu 67 tal-Att il-kliem "mhux iżjed minn sebat elef euro (€7,000.00)." għandhom jiġu sostitwiti bil-kliem "mhux iżjed minn sebat elef euro (€7,000.00):" u minnufih wara għandu jizdied il-proviso ġdid li ġej:

"Iżda wkoll meta l-qorti, wara li tkun ikkundannat lill-akkużat, hija tal-opinjoni li meta tqies l-età tal-ħati, l-imġieba preċedenti tiegħu, l-effetti tar-reat, il-mezzi li bihom wettaq ir-reat u ċ-ċirkostanzi oħra kollha tar-reat, il-piena prevista fis-subartikolu (1) u fl-ewwel proviso tiegħu mhijiex xierqa, tista', minkejja d-dispożizzjonijiet l-oħra tat-tielet proviso ta' dan is-subartikolu, tapplika l-pieni stabbiliti fit-tielet proviso msemmi."

### **Ghanijiet u Raġunijiet**

L-għanijiet ta' dan l-Abbozz ta' Ligi huma biex jiġu implimentati d-dispożizzjonijiet tad-Deciżjoni Qafas tal-Kunsill 2008/675/ĠAI dwar il-konsiderazzjoni ta' kundanni fi Stati Membri tal-Unjoni Ewropea waqt proċeduri kriminali godda, biex timplimenta d-dispożizzjonijiet tad-Deciżjoni Kwadru tal-Kunsill 2008/841/ĠAI dwar il-ġlieda kontra l-kriminalità organizzata, biex timplimenta d-Deciżjoni tal-Kunsill 2008/615/ĠAI dwar it-titjib tal-koperazzjoni transkonfinali, b'mod partikolari fil-ġlieda kontra t-terroriżmu u l-kriminalità transkonfinali.

Barra minhekk, qegħdin jiġu introdotti emendi ta' diversi ligijiet biex b'hekk il-prosekuzzjoni tkun tista' tikklassifika l-gravità ta' ċertu reati u taċċerta lill-qorti fuq liema kriterji għandhom jiġu mressqa persuni akkużati għall-finijiet li jiġu pprovdu linjigwida dwar il-mod kif dawn għandhom jiġu kklassifikati, tingħata wkoll opportunità lill-akkużat biex jagħmel sħarriġ ġudizzjarju ta' dik il-klassifikazzjoni u biex il-qorti tingħata poter li tapplika pjeni ta' skala inqas minkejja l-fatt li hemm dik il-klassifikazzjoni. L-Abbozz jemenda wkoll l-Ordinanza dwar iċ-Certifikati tal-Kondotta bil-għan li jsiru dispożizzjonijiet in konformi maċ-ċirkostanzi li d-dikjarazzjoni tal-Formola Ċ tista' tkun imfittxija u li tipprovdi għar-reati li jkunu saru għall-ewwel darba.

C 416

**A Bill  
entitled**

*AN ACT to amend the Criminal Code (Cap. 9.) and to provide for any other matters ancillary or consequential thereto.*

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

Short title.

**1.** (1) The short title of this Act is the Various Laws (Criminal Matters) (Amendment No. 2) Act, 2014.

(2) The provisions of this Act shall come into force on such date as the Minister responsible for Justice may by notice in the Gazette establish, and different dates may be so established for different provisions and for different purposes of this Act.

**PART I  
Amendments to the Criminal Code**

Amendment of the Criminal Code. Cap. 9.

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

Amendment of article 5 of the Code.

**3.** In sub-paragraph (i) of paragraph (e) of sub-article (1) of article 5 of the Code, for the words "314B, 316" there shall be substituted the words "314B, 314CA, 316".

Amendment of article 17 of the Code.

**4.** In sub-paragraph (b) of article 17 of the Code, the words "provided the period to be awarded shall not exceed thirty-five years" shall be deleted.

Amendment of article 23C of the Code.

**5.** Article 23C of the Code shall be amended as follows:

(a) in sub-article (2) thereof, for the words "(3A)(b) and (d)" there shall be substituted the words "(3A)(b) and (d) and

(7)"; and

(b) immediately after sub-article (2) thereof there shall be added the following new sub-article:

"(3) For the purposes of this article:

"relevant offence" means any offence not being one of an involuntary nature, liable to the punishment of imprisonment for a term of more than one year;

"property" shall have the same meaning assigned to it by article 23B(3)."

6. Article 28G of the Code shall be amended as follows:

Amendment of  
article 28G of  
the Code.

(a) immediately after sub-article (1) thereof, there shall be added the following new sub-article:

"(1A) Where a supervision order is made in accordance with the provisions of sub-article (1), the court may, in addition to the order, make a community service order as defined in article 11 of the Probation Act and the provisions of the Probation Act shall, *mutatis mutandis*, apply to any such order."; and

(b) immediately after sub-article (9) thereof, there shall be added the following new sub-article:

"(10) Any reference to a supervision order shall be deemed to include a community service order."

7. Article 31 of the Code shall be amended as follows:

Amendment of  
article 31 of the  
Code.

(a) sub-paragraph (i) to sub-paragraph (xiv), both inclusive, of paragraph (b) of sub-article (1) thereof shall be renumbered as sub-paragraphs (ii) to (xv) respectively and immediately before sub-paragraph (ii), as renumbered, there shall be added the following new sub-paragraph:

"(i) from ten years to forty years";

(b) in paragraph (c) of sub-article (1) thereof, for the words "the descent from the fourteenth degree" there shall be substituted the words "the descent from the fifteenth degree"; and

(c) in paragraph (d) of sub-article (1) thereof for the words "commencing from the fourteenth degree" there shall be

C 418

substituted the words "commencing from the fifteenth degree".

Substitution of article 49 of the Code.

**8.** Article 49 of the Code shall be substituted by the following new article:

"49. (1) A person is deemed to be a recidivist if, after being sentenced for any offence by a judgment, even when delivered by a foreign court, which has become *res judicata*, he commits another offence.

(2) In any proceedings under or for the purposes of this article, a document, duly authenticated, which certifies that a person was convicted on a date specified in the document of an offence against the law of that State, or part of that State, shall be admissible as evidence of the fact and date of the conviction without any need for further evidence.

(3) A document shall be deemed to be duly authenticated if one of the following conditions applies:

(a) it purports to be signed by a judge, magistrate or officer of the sentencing State; or

(b) it purports to be certified, whether by seal or otherwise, by the Ministry, department or other authority responsible for justice or for foreign affairs of the sentencing State; or

(c) it purports to be authenticated by the oath, declaration or affirmation of a witness.

(4) Any document which is to be sent in connection with proceedings under this article may be transmitted by any secure means capable of producing written records and under conditions permitting the ascertainment of its authenticity.

(5) In this article, "oath" includes an affirmation or a declaration; and nothing in this article shall be construed as prejudicing the admission in evidence of any document which is admissible in evidence under any other provision of law."

Substitution of the heading of Title I of Part II of Book First of the Code.

**9.** Immediately before article 54A of the Code, the heading of Title I of Part II of Book First shall be substituted by the following new heading: "OF GENOCIDE, CRIMES AGAINST HUMANITY, WAR CRIMES AND CRIMES OF AGGRESSION".

Amendment of article 54A of the Code.

**10.** Article 54A of the Code shall be amended as follows:

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

following new sub-article:

"(1) It is a crime for a person to commit genocide, a crime against humanity, a war crime or a crime of aggression.";

(b) in sub-article (2) thereof, immediately after the definition "war crime" there shall be added the following new definition:

" "crime of aggression" means a war crime as defined in article 54DA;" and

(c) in sub-article (4) thereof, for the words "54C and 54D" there shall be substituted the words "54C, 54D and 54DA".

**11.** Immediately after sub-paragraph (xii) of paragraph (e) of article 54D of the Code, there shall be added the following new sub-paragraphs: Amendment of article 54D of the Code.

"(xiii) employing poison or poisoned weapons;

(xiv) employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;

(xv) employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;"

**12.** Immediately after article 54D of the Code, there shall be added the following new article: Addition of new article to the Code.

"Crime of aggression.

54DA. (1) A crime of aggression means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.

(2) For the purposes of this article an "act of aggression" means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations.

(3) Any of the following acts, regardless of a declaration of war, shall, in accordance with UN General Assembly Resolution 3314(XXIX) of 14 December 1974, qualify as an act of aggression:

(a) the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;

(b) bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

(c) the blockade of the ports or coasts of a State by the armed forces of another State;

(d) an attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

(e) the use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

(f) the action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State; and



(g) the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein."

**13.** Article 82A of the Code shall be amended as follows:

Amendment of article 82A of the Code.

(a) for the words "violence or hatred", wherever they occur in the said article 82A, there shall be substituted the words "violence or racial hatred"; and

(b) in sub-article (2) thereof, for the words "language, ethnic origin," there shall be substituted the words "language, national or ethnic origin, citizenship,".

**14.** In article 82B of the Code, for the words "descent or national" there shall be substituted the words "citizenship, descent or national".

Amendment of article 82B of the Code.

**15.** In sub-article (1) of article 82C of the Code, for the words "language, ethnic origin," there shall be substituted the words "language, national or ethnic origin, citizenship,".

Amendment of article 82C of the Code.

**16.** In article 83 of the Code, immediately after the words "who establishes, maintains" there shall be added the words "on his own or with other persons"; and for the words "to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment" there shall be substituted the words "to a fine (*multa*) not exceeding five thousand euro (€5000) or to imprisonment for a term from nine months to five years, or to both such fine and imprisonment".

Amendment of article 83 of the Code.

**17.** Article 83A of the Code shall be amended as follows:

Amendment of article 83A of the Code.

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

"(1) Any person who -

(a) promotes, constitutes, organises or finances an organization with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more; or

(b) knowing or having reasonable cause to

C 422

suspect the aim or general activity of the organization set up for the purpose mentioned in paragraph (a), actively takes part in the organisation's criminal activities, including but not limited to the provision of information or material means or the recruitment of new members,

shall be guilty of an offence and shall be liable, on conviction, to the punishment of imprisonment for a term from four to nine years.";

(b) in sub-article (2) thereof, for the words "shall for that mere fact be liable to the punishment of imprisonment for a term from one to five years" there shall be substituted the words "shall for that mere fact be liable to the punishment of imprisonment for a term from two to seven years"; and

(c) in the Maltese version of sub-article (4) thereof, for the words "taħt dan l-artikolu" there shall be substituted the words "taħt dan it-titolu".

Amendment of the Sub-title before article 83B.

**18.** In the Sub-title before article 83B of the Code, for the words "MOTIVATED BY XENOFOBIA" there shall be substituted the words "MOTIVATED BY XENOFOBIA OR HOMOFOBIA".

Amendment of article 83B of the Code.

**19.** In article 83B of the Code, for the words "language, ethnic origin," there shall be substituted the words "language, national or ethnic origin, citizenship," and for the words "sub-articles (3) to (6), both inclusive, of article 222A." there shall be substituted the words "sub-articles (3) to (6), both inclusive, of article 222A:", and immediately thereafter there shall be added the following new proviso:

"Provided that the provisions of this article shall not apply where an aggravation of punishment in respect of the motives mentioned in this article is already provided for under this Code or any other law."

Addition of new article to the Code.

**20.** Immediately after article 83B of the Code there shall be added the following new article:

"Offences committed by a body corporate.

83C. Whenever an offence is committed for the benefit, in part or in whole, of a body corporate by a person who has the power of representation of the body corporate, authority to take decisions on behalf of the body corporate, or authority to exercise control of the body corporate, the legal person may be subject to:

- (a) exclusion from entitlement to public benefits or aid;
- (b) temporary or permanent disqualification from the practice of commercial activities;
- (c) placing under judicial supervision;
- (d) judicial winding up; or
- (e) temporary or permanent closure of establishments:

Provided that the provisions of this article shall not apply where the punishment mentioned in this article is already provided for under this Code or any other law."

**21.** Immediately after article 135 of the Code there shall be added the following new article:

Addition of new article to the Code.

"Promotion of violence or racial hatred by public officers.

135A. Any public officer or servant who, under colour of his office, creates or assumes leadership of a group which promotes violence or racial hatred within the meaning of sub-articles (3) to (6), both inclusive, of article 222A, shall, where the act committed does not constitute a more serious offence, be liable to the punishment of imprisonment for a term from one to five years."

**22.** In article 161 of the Code, for the words "destined for public utility or public embellishment, and erected by, or with the permission of the public authority, shall, on conviction, be liable to imprisonment for a term from one month to one year or to a fine (*multa*) not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37)" there shall be substituted the words "destined for public utility or public embellishment, and

Amendment of article 161 of the Code.

C 424

erected by, or with the permission of the public authority, shall, on conviction, be liable to imprisonment for a term from six to eighteen months or to a fine (*multa*) not exceeding three thousand and five hundred euro (€3,500)".

Amendment of article 162 of the Code.

**23.** In article 162 of the Code, for the words "on conviction, be liable to imprisonment for a term from one to eighteen months or to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69)" there shall be substituted the words "on conviction, be liable to imprisonment for a term from nine months to two years or to a fine (*multa*) not exceeding five thousand euro (€5,000)".

Amendment of article 222A of the Code.

**24.** Article 222A of the Code shall be amended as follows:

(a) in sub-article (2) thereof, for the words "language, ethnic origin," there shall be substituted the words "language, national or ethnic origin, citizenship,"; and

(b) in sub-article (3) thereof, for the words "language, ethnic origin," there shall be substituted the words "language, national or ethnic origin, citizenship,".

Amendment of article 250 of the Code.

**25.** Article 250 of the Code shall be amended as follows:

(a) in sub-article (1) thereof, for the words "five to eighteen months" there shall be substituted the words "one to four years"; and

(b) in sub-article (2) thereof, for the words "seven months to three years" there shall be substituted the words "eighteen months to five years".

Amendment of article 251 of the Code.

**26.** Immediately after sub-article (2) of article 251 of the Code there shall be added the following new sub-article:

"(3) Whosoever shall cause another to fear that violence will be used against him or his property or against the person or property of any of his ascendants, descendants, brothers or sisters or any person mentioned in article 222(1) shall be liable to the punishments prescribed in sub-article (1) decreased by one to two degrees:

Provided that where the offender shall have attained his end, he shall be liable to the punishment laid down in sub-article (2) decreased by one to two degrees."

27. Sub-article (4) of article 251A of the Code shall be amended as follows: Amendment of article 251A of the Code.

(a) for the words "one to three months" there shall be substituted the words "one to six months"; and

(b) for the words "two thousand and three hundred and twenty-nine euro and thirty-seven cents (2329.37) and not more than four thousand and six hundred and fifty-eight euro and seventy-five cents (4658.75)" there shall be substituted the words "two thousand five hundred euro (2,500) and not more than five thousand euro (5,000)".

28. Immediately after article 251A of the Code, there shall be added the following new article: Addition of new article to the Code.

"Stalking. 251AA. (1) A person who:"

(a) pursues a course of conduct in breach of article 251A(1), and

(b) the course of conduct amounts to stalking,

shall be guilty of an offence under this article.

(2) For the purposes of paragraph (b) of sub-article (1) of this article and article 251BA(1)(a), a person's course of conduct amounts to stalking of another person if:

(a) it amounts to harassment of that person,

(b) the acts or omissions involved are ones associated with stalking, and

(c) the person, whose course of conduct it is, knows or ought to know that the course of conduct amounts to harassment of the other person.

(3) The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking:

(a) following a person,

(b) contacting, or attempting to contact, a person by any means,

(c) publishing, by any means, any statement or other material -

C 426

(i) relating or purporting to relate to a person, or

(ii) purporting to originate from a person,

(d) monitoring the use by a person of the internet, email or any other form of electronic communication,

(e) loitering in any place, whether public or private,

(f) interfering with any property in the possession of a person,

(g) watching or spying on a person.

(4) A person guilty of an offence under this article shall be liable to the punishment of imprisonment for a term from six to twelve months or to a fine (*multa*) not exceeding ten thousand euro (10,000), or to both such fine and imprisonment:

Provided that the punishment shall be increased by one degree when the offence is committed against any person mentioned in article 222(1)."

Adds new article to the Code.

**29.** Immediately after article 251B of the Code, there shall be added the following new article:

"Stalking involving fear of violence, serious alarm or distress.

251BA. (1) A person whose course of conduct -

(a) amounts to stalking, and

(b) either:

(i) causes another to fear on at least two occasions that violence will be used against him, or

(ii) causes him serious alarm or distress which has a substantial adverse effect on his usual day-to-day activities,

shall be guilty of an offence under this article if he knows or ought to know that his course of conduct will cause that person so to fear on each of those occasions or, as the case may be, will cause such alarm or distress.

(2) For the purposes of this article, the person whose course of conduct is in question ought to know that it will cause another person to fear that violence will be used against him on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion.

(3) For the purposes of this article, the person whose course of conduct is in question ought to know that it will cause another person serious alarm or distress which has a substantial adverse effect on the said person's usual day-to-day activities if a reasonable person in possession of the same information would think the course of conduct would cause the other such alarm or distress.

(4) It shall be a defence for a person charged with an offence under this article that his course of conduct was pursued in the circumstances mentioned in article 251B(3)(a) or (b).

(5) A person guilty of an offence under this article shall be liable to imprisonment for a term for nine months to five years or to a fine (*multa*) not exceeding thirty thousand euro (30,000), or to both such fine and imprisonment:

Provided that the punishment shall be increased by one degree when the offence is committed against any person mentioned in article 222(1).

(6) The acquittal of a person charged with an offence under this article shall not exclude a conviction for an offence under articles 251A or 251AA.

(7) This article shall be without prejudice to the generality of the provisions of article 251B."

**30.** In article 251C of the Code, for the words "51A and 251B" there shall be substituted the words "51A to 251BA, both inclusive." Amendment of article 251C of the Code.

**31.** Article 251D of the Code shall be substituted by the Substitution of article 251D of the Code.

C 428

following:

"General provisions.

251D. (1) The punishments established in the foregoing provisions of this sub-title shall be increased by one to two degrees when the offence is aggravated or motivated on the grounds of gender, gender identity, sexual orientation, race, colour, language, national or ethnic origin, citizenship, religion or belief or political or other opinion within the meaning of sub-articles (3) to (6), both inclusive, of article 222A.

(2) The punishments established in articles 251A to 251BA, both inclusive, shall be increased by one degree when the offence is committed by any of the means mentioned in article 337B(1).

(3) Where a person is charged under articles 251 to 251BA, both inclusive, the court may make an order in terms of sub-article (1) and paragraphs (a) to (c), both inclusive, of sub-article (3) of article 412C."

Substitution of article 298B of the Code.

**32.** Article 298B of the Code shall be substituted by the following:

"Violation of copyright.

298B. (1) Any person who, in the exercise of any trade or in the course of business or with a view to gain for himself or for any other person, or with intent to cause loss to, or to prejudice, another person:

(a) prints, manufactures, duplicates or otherwise reproduces, or sells, distributes or otherwise offers for sale or distribution, any article or other thing in violation of the rights of copyright protected by or under Maltese law, or

(b) has in his possession, custody or control any such article or other thing with a view to carrying out any of the acts mentioned under paragraph (a),



shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine (*multa*) of not less than three thousand euro (€3,000) and not more than twenty-four thousand euro (€24,000) or to both such fine and imprisonment.

(2) Proceedings under this article may not be taken except on the complaint of the injured party."

**33.** In article 308 of the Code, for the words "to imprisonment for a term from seven months to two years" there shall be substituted the words "to imprisonment for a term from one to seven years".

Amendment of article 308 of the Code.

**34.** In article 309 of the Code, for the words "imprisonment for a term from one to six months" there shall be substituted the words "imprisonment for a term from two months to two years".

Amendment of article 309 of the Code.

**35.** Article 310 of the Code shall be substituted by the following new article:

Substitution of article 310 of the Code.

"310. (1) In cases referred to in this sub-title -

(a) when the amount of damage caused by the offender exceeds five thousand euro (€5000), the punishment shall be that of imprisonment from two to nine years;

(b) when the amount of damage caused by the offender exceeds five hundred euro (€500) but does not exceed five thousand euro (€5000), the punishment shall be that of imprisonment from six months to four years:

Provided that if the punishment laid down for the relevant offence in the preceding articles of this Sub-title is higher than the punishment laid down in this paragraph the former punishment shall apply increased by one degree and in the case of the offence under article 294 the punishment so increased shall not be awarded in its minimum;

(c) when the amount of the damage caused by the offender does not exceed five hundred euro (€500), the offender shall be liable to imprisonment for a term not exceeding six months.

(2) The provisions of sub-article (1)(c) shall not

C 430

apply in the case of any of the crimes referred to in articles 296 and 298."

Amendment of article 310A of the Code.

**36.** In article 310A of the Code, for the words "121C, 121D and 248E(4)" there shall be substituted the words "121C, 121D, 248E(4) and 328K".

Addition of new article in the Code.

**37.** Immediately after article 310B of the Code, there shall be added the following new article:

"Possession, making or supplying etc., of articles for use in fraud.

310BA.(1) Whosoever is found to be in possession or has under his control any article for use in the course of or in connection with any fraud, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term from six months to three years and to the forfeiture of the said articles.

(2) Whosoever makes, adapts, supplies or offers to supply any article -

(a) knowing that it is designed or adapted for use in the course of or in connection with fraud, or

(b) intending it to be used to commit, or assist in the commission of, fraud,

shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term from twelve months to five years and to the forfeiture of the said articles.

(3) For the purposes of this article:

"article" includes any document, program or data held in electronic form; and

"document" shall have the meaning assigned to it by article 558(2)."

Amendment of article 316 of the Code.

**38.** Article 316 of the Code shall be amended as follows:

(a) for the words "vessel, dock" there shall be substituted "vessel, vehicle, dock";

(b) in paragraph (a) thereof, for the words "nine to twelve years;" there shall be substituted the words "six to twelve years"; and

(c) in paragraph (b) thereof, for the words "five to nine years." there shall be substituted the words "four to nine years."

**39.** In article 317 of the Code, for the words "any building, shed" there shall be substituted the words "any building, vehicle, shed"; and for the words "such building, shed" there shall be substituted the words "such building, vehicle, shed".

Amendment of article 317 of the Code.

**40.** In article 318 of the Code, for the words "any building, shed" there shall be substituted the words "any building, vehicle, shed"; and for the words "such building, shed" there shall be substituted the words "such building, vehicle, shed" and for the words "any other building, shed".

Amendment of article 318 of the Code.

**41.** Sub-article (1) of article 325 of the Code shall be amended as follows:

Amendment of article 325 of the Code.

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

"(a) if the amount of the damage exceeds two thousand and five hundred euro (2,500), to imprisonment for a term from eighteen months to four years;"

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

"(b) if the amount of the damage does not exceed two thousand and five hundred euro (2,500) but exceeds two hundred and fifty euro (250), to imprisonment for a term from eight to fourteen months;"

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

"(c) if the amount of the damage does not exceed two hundred and fifty euro (250), to imprisonment for a term not exceeding six months;"

**42.** In sub-article (1) of article 325A of the Code, for the words "language, ethnic origin," there shall be substituted the words "language, national or ethnic origin, citizenship".

Amendment of article 325A of the Code.

**43.** Article 328 of the Code shall be amended as follows:

Amendment of article 328 of the Code.

(a) in the proviso thereto, for the words "on the complaint of the injured party." there shall be substituted the words "on the complaint of the injured party:" and

(b) immediately after the proviso thereto there shall be added the following new proviso:

C 432

"Provided further that the proceedings referred to in paragraph (d) with respect to damage caused on a motor vehicle, which is public property, on the complaint of the head of the Government department in charge of the said vehicle, the provisions of article 374(d) shall not apply to those proceedings after the complainant will have confirmed his complaint under oath before the court and the absence of the complainant from attendance in court in any stage of the proceedings shall not be considered to constitute desertion of the proceedings or the withdrawal of the complaint as long as such absence occurs at a stage which is subsequent to the said confirmation on oath of the complaint by the complainant."

Amendment of article 328N of the Code.

**44.** In the Maltese version of sub-paragraph (i) of paragraph (a) of sub-article (1) of article 328N of the Code, for the words "bejn sema u ilma" there shall be substituted the words "f'ibħra miftuha".

Amendment of article 355AV of the Code.

**45.** In paragraph (c) of article 355AV of the Code, for the words "consent of the person arrested:" there shall be substituted the words "consent of the person arrested and the provisions of the proviso to article 355BB shall, *mutatis mutandis*, apply:".

Amendment of article 355BA of the Code.

**46.** Article 355BA of the Code shall be amended as follows:

(a) in paragraph (a) of sub-article (1) thereof, for the words "palm-prints" there shall be substituted the words "palm-prints, other prints or hand-writing samples"; and

(b) in paragraph (a) of sub-article (2) thereof, for the words "palm-prints or other prints" there shall be substituted the words "palm-prints, other prints or hand-writing samples".

Amendment of article 355BB of the Code.

**47.** The proviso to article 355BB of the Code shall be substituted by the following:

"Provided that in the event that the person, other than the person arrested, withholds his consent to the taking of a sample, whether intimate or non-intimate, a Magistrate's authorisation may also be obtained upon an application and, saving the provisions of article 355AZ, such authorization shall also cover the taking of any proportionate and necessary measures, including the use of force, by the Executive Police to give effect to such authorization."

Addition of new article to the Code.

**48.** Immediately after article 355BC of the Code there shall be

added the following new article:

"Use of specimens. 355BD. The Commissioner of Police may make use of specimens, which would have been taken in criminal proceedings, for the purposes of subsequent criminal proceedings."

49. In sub-article (1) of article 360A of the Code for the words "or by an employee or officer of a body corporate established by law", there shall be substituted the words "or by an employee or officer of a body corporate established by law or by a representative of an undertaking as defined in terms of article 2 the Electronic Communications (Regulation) Act".

Amendment of article 360A of the Code.

50. Immediately after article 360A of the Code there shall be added the following new article:

Addition of new article to the Code.

"Judgements in absentia. 360B. (1) Notwithstanding the other provisions of this Code or of any other law, the provisions of this article shall apply to offences within the jurisdiction of the Court of Magistrates as a court of criminal judicature under article 370(1).

(2) Where a person, having been charged with an offence referred to in subarticle (1) and having been duly served with a summons, fails to appear personally before the court, he shall be deemed to have given his consent for the trial to proceed in his absence and, the court shall proceed with the hearing in the absence of the person charged and shall thereupon proceed to deliver judgement:

Provided that any person charged as afore-said may instead of appearing before the Court of Magistrates file in the Registry of that court representations in writing and, or a declaration on the facts of the case confirmed on oath contesting the charge against him, and the Court shall, prior to deciding the case, take into account such representations and, or a declaration as if they had been made *viva voce* before the said court.

(3) A judgement delivered in terms of this article shall be subject to appeal.

C 434

(4) Where no appeal is filed, a judgment delivered in terms of this article shall be served on the offender who, within seven working days of service, shall have a further right of appeal against judgement and the provisions of this code relating to appeals shall, subject to the provisions of this article, *mutatis mutandis* apply:

Provided that there shall be no right of appeal if it is shown that any of the following circumstances exist:

(a) the offender was in due time:

(i) summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the judgement, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he was aware of the scheduled trial; and

(ii) informed that a judgement may be handed down if he does not appear for the trial; or

(b) the offender, being aware of the scheduled trial, had given a mandate to legal counsel appointed by him to defend him at his trial, and was indeed defended by the said legal counsel at the trial.

(5) A summons issued under this article shall also contain an intimation that in default of appearance the person summoned shall be deemed to have given his consent for the trial to proceed in his absence.

(6) Where a judgment is served as provided under sub-article (4) the offender shall also be informed of his further right of appeal in terms of the said subarticle."

Substitution of  
article 392B of  
the Code.

**51.** Article 392B of the Code shall be substituted by the

following:

"Admission of  
guilt.

**392B.** (1) In the case where the accused, in answer to the question in article 392(1)(b) and in any stage of the proceedings, states, that he is guilty of the offence charged and the said offence is liable to a punishment exceeding ten years imprisonment, the court shall warn him in the most solemn manner about the legal consequences of that reply, and shall allow him a period of time for him to reply. Without prejudice to the provisions of sub-article (3) of article 392A and notwithstanding any other provision of this Code or any other law, if the accused persists in his statement that he is guilty of the offence charged, the court shall, after recording the admission of guilt:

(a) order the record of the inquiry, together with all the exhibits in the case, to be, transmitted to the Attorney General, within three working days; and

(b) notify the Registrar of the Criminal Court that an admission of guilt has been made.

(2) The Attorney General shall be allowed the term of one month to present a note in the Criminal Court by which note he shall declare that the indictment presented before the Court of Magistrates as a court of inquiry and to which the accused person has admitted guilt, shall be considered as a bill of indictment; such declaration shall not in any way give rise to any nullity or other defect in the proceedings notwithstanding the other provisions of this Code and of any other law.

(3) Where the Criminal Court is notified by the Court of Magistrates as a court of inquiry, about the admission of guilt in accordance with paragraph (b) of sub-article (1), the Criminal Court shall, within two months from the date of notification, appoint the date of hearing.

(4) The Criminal Court shall, either *ex officio*, upon a request by the Attorney General or by the accused, examine that evidence that it deems relevant for the purposes of punishment, and after examining the submissions by the Attorney General and the accused relating to the punishment, proceed to pass on the accused such sentence as would according to law be passed on an accused convicted of the offence and shall order that the record of the proceedings together with a copy of the judgement be transmitted to the Attorney General within six working days.

(5) (a) The accused and the Attorney General may request the Criminal Court to apply a sanction or measure or, where provided for by law, a combination of sanctions or measures, of the kind and quantity agreed between them, and to which the accused can be sentenced.

(b) If the court is satisfied that the sanction or the measure, or the combination of sanctions and measures requested, as provided for in paragraph (a), is one which it would be lawful for it to impose upon conviction of the offence for which the accused has pleaded guilty, the court shall proceed to pass the sentence indicated to it by the parties declaring in its judgment that the sentence being awarded is being so awarded at the request of the parties.

(c) The provisions of sub-articles (3), (4) and (5) of article 453A shall, *mutatis mutandis*, apply to this sub-article.

(6) Notwithstanding any other provisions of this Code or any other law, an admission made and recorded according to the provisions of sub-article (1) may not be revoked or withdrawn.



(7) When the Criminal Court deems that a formality was not observed according to this article or there is any other defect in the proceedings, the Criminal Court shall send all proceedings back to the Court of Magistrates as a court of inquiry to commence the inquiry anew."

52. Immediately after article 392B of the Code there shall be added the following new article:

Addition of new article to the Code.

"Payment of costs upon admission of guilt.

392C. (1) Upon an admission of guilt by the accused, whether during the examination or at any stage of the proceedings, the court shall, before proceeding to pronounce judgement, ascertain whether an inquiry relating to the *in genere* or a *repertus* has been held and if in the affirmative, the court shall, in pronouncing judgment or in any subsequent order, sentence the person convicted or the persons convicted, jointly or severally, to the payment, wholly or in part, to the registrar, of the costs incurred in connection with the employment in the proceedings of any expert or referee, including such experts as would have been appointed in the examination of the process verbal of the inquiry, within such period and in such amount as shall be determined in the judgment or order:

Provided that where the said costs are not yet determined at time of pronouncing the judgement or in the event that any expert or referee has not presented his report or the process verbal has not been concluded, the Registrar is empowered to determine the costs, and to proceed to their recovery from the person or persons convicted, wholly or in part, as directed by the court in its judgement:

C 438

Provided further that the Court shall, before proceeding to pronounce judgement as aforesaid and in making an order in terms of article 23B, ascertain whether an order as is referred to in articles 23A and 23D has been made, and if in the affirmative, the provisions of this sub-article shall, *mutatis mutandis*, apply to any such order.

(2) The provisions of article 533 shall *mutatis mutandis* apply to any order made under this article."

Amendment of article 397 of the Code.

**53.** In sub-article (1) of article 397 of the Code, for the words "experiment or any other thing" there shall be substituted the words "experiment, the taking of any sample and any other measure or thing".

Substitution of article 399 of the Code.

**54.** Article 399 of the Code shall be substituted by the following new article:

"399. (1) When the court decides that the examination of any witness or any other process of the inquiry by a foreign authority is indispensably necessary, the request for legal assistance and the court's decision shall be served, within three working days, on the Attorney General who may, within five working days, make any submissions in writing as he may deem appropriate.

(2) The accused may, not later than four working days from any such decision, submit an additional request for the examination of any witness or any other process of the inquiry, and appoint some person to represent him at the examination or process. Such term may, upon good cause being shown, be extended:

Provided that such term as extended shall not exceed thirty days from the date of the decision.

(3) The court shall order the transmission of the request for legal assistance to the foreign authority within three working days upon the expiry of the period referred to in sub-article (2).

(4) The Criminal Court shall have competence to order the transmission of the request for legal assistance to the foreign authority upon an application being made by the Attorney General or the accused upon the expiry of the time period referred to in sub-article (3).

(5) The provisions of article 622B of the Code of Organization and Civil Procedure providing for the audio-recording or video-recording of evidence or by any other means shall apply to a request for the examination of any witness under this article.

(6) The provisions of articles 618 and 619 of the Code of Organization and Civil Procedure shall apply for the purposes of this article:

Provided that where there exists any treaty, convention, agreement or understanding between Malta and another country or which applies to both such countries or to which both such countries are a party, the request shall be made and transmitted in terms of the said treaty, convention, agreement or understanding.

(7) For purposes of this article a letter of request shall contain the following:

(a) the object of and the reason for the request;

(b) details of the person or persons named in the request including, where available, address, date of birth and nationality;

(c) a description of the offences with which a person has been charged and the punishment to which the offences are liable;

(d) a summary of the facts giving rise to the request; and

(e) a copy of the relevant legislation that criminalises the conduct attributed to the offender and gives information on the offence, penalty and rights a person may be afforded."

**55.** In paragraph (c) of sub-article (1) of article 402 of the Code, for the words "article 399." there shall be substituted the words "article 399;" and immediately thereafter there shall be added the following new paragraph:

Amendment of article 402 of the Code.

"(d) when the court accedes to a request made in terms of article 46(3) of the Constitution."

**56.** Immediately after sub-article (7) of article 405 of the Code, there shall be added the following new sub-article:

Amendment of article 405 of the Code.

C 440

"(8) The court shall proceed to take any other action or measure relating to the inquiry as may be demanded in writing by the Attorney General."

Amendment of article 413 of the Code.

**57.** Immediately after sub-paragraph (vii) of paragraph (b) of sub-article (1) of article 413 of the Code, there shall be added the following new sub-paragraph:

"(viii) the judgement of the inferior court is null by reason of lack of formality or procedural requirements;"

Amendment of article 435AA of the Code.

**58.** In sub-article (1) of article 435AA of the Code, for the words "through one or more accounts of the suspect." there shall be substituted the words "through one or more accounts in the name of the suspect, or through one or more accounts suspected to have been used in the commission of the offence or which could provide information about the offence or the circumstances thereof, whether before, during or after the commission of the offence, including any such accounts in the name of legal persons."

Amendment of article 435BA of the Code.

**59.** In sub-article (2) of article 435BA of the Code, immediately after the words "435AA" there shall be added the words "or through one or more accounts suspected to have been used in the commission of the offence or which could provide information about the offence or the circumstances thereof, whether before, during or after the commission of the offence, including any such accounts in the name of legal persons".

Amendment of article 522 of the Code.

**60.** Article 522 of the Code shall be amended as follows:

(a) in sub-article (2) thereof, for the words "be liable to the punishment of imprisonment not exceeding three months" there shall be substituted the words "be liable to a fine (*multa*) of not less than two thousand and three hundred euro (€2,300) and not more than four thousand and six hundred euro (€4,600) or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment"; and

(b) in sub-article (4) thereof, for the words "but shall be liable to the punishment of a fine (*multa*)" there shall be substituted the words "but shall be liable, on conviction, to the punishment of a fine (*multa*)".

Amendment of article 525 of the Code.

**61.** Article 525 of the Code shall be amended as follows:

(a) in sub-article (2) thereof, for the words "and of article 397(5)" there shall be substituted the words "of article 397(5) and of article 399"; and

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

"The provisions of article 397, of sub-articles (2) to (4), both inclusive, of articles 467 and 623 shall, *mutatis mutandis*, also be applied by the Court of Magistrates in cases falling within its jurisdiction as court of criminal judicature under any other provision of this Code or of any other law."

**62.** Immediately after article 531 there shall be added the following new article: Addition of new article to the Code.

"Subsequent notice.

531A. In proceedings before a court of criminal justice, where the party charged or accused, having been notified with the date of the first hearing in accordance with the provisions of this Code, has appeared for the said hearing, no subsequent notice need be given of any date to which a case which has been set down for hearing as aforesaid or has started to be heard is put off and it shall be the responsibility of the person charged or accused to verify such date:

Provided that this provision shall also apply where the person charged or accused, notwithstanding not having been notified in accordance with the provisions of this Code, still appears for the hearing."

**63.** In article 542 of the Code, for the words "by a brother on behalf of his sister or vice versa," there shall be substituted the words "by one of the siblings on behalf of the other,". Amendment of article 542 of the Code.

**64.** Article 548 of the Code shall amended as follows: Amendment of article 548 of the Code.

(a) the article shall be renumbered as sub-article (1) thereof;

(b) in the third proviso to sub-article (1) thereof, as renumbered, for the words "the relevant facts." there shall be substituted the words "the relevant facts, where the offence to be investigated is one which carries a maximum term of imprisonment of seven years or more."; and

(c) immediately after sub-article (1) thereof, as renumbered, there shall be added the following new sub-article:

C 442

"(2) Experts employed in the inquest for the purpose of collecting and examining any dactyloscopic data and samples for analyzing human DNA shall transmit to the Executive Police copies of the dactyloscopic data and DNA profiles together with any other information related to the dactyloscopic data and DNA profile.

For the purpose of this article:

"dactyloscopic data" means fingerprint images, images of fingerprint latents, palm prints, palm print latents, writers palm prints and writers palm print latents; and

"DNA profile" means a letter or number code which represents a set of identification characteristics of the non-coding part of an analysed human DNA sample, that is the particular molecular structure at the various DNA locations (loci)."

Amendment of  
article 550 of  
the Code.

**65.** Article 550 of the Code shall be amended as follows:

(a) in sub-article (1) thereof:

(i) immediately after the words "or other persons who took part in the inquest" there shall be added the words "or gave evidence during the Magisterial inquest";

(ii) the words "in the inquest" shall be deleted; and

(iii) immediately after the words "as court of criminal inquiry" there shall be added the words "during the compilation stage";

(b) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) Nevertheless during the period for the conclusion of compilation of evidence referred to in article 401(1) up to the time when the court decides whether there exist enough reasons for the accused to be indicted for an offence as referred to in article 401(2) or not, it shall be lawful for the Police, with the special permission of the Court of Magistrates as a court of criminal inquiry to call upon any person referred to in sub-article (1) to give evidence during the compilation proceedings before the

same court on matters which are duly specified and mentioned by the court in its special permission; so however that after the conclusion of the compilation stage in accordance with article 402(1) and after the court will have decided whether there are enough reasons for the accused to be indicted for an offence as referred to in article 401(2) or not, the Attorney General may require the presence of any of those persons in accordance with the provisions of article 405 in order for them to give replies on specific matters indicated by the Attorney General in his written request. The person summoned may also request the presence of any one of those persons for the purpose of the cross-examination."

**66.** In sub-article (1) of article 605 of the Code, for the words "The Commissioner of Police or his representative, a Magistrate, the Attorney General or his representative, the President of the Chamber of Advocates and the President of the Chamber of Legal Procurators shall, twice a year, draw up to the best of their knowledge -" there shall be substituted the words "The Commissioner of Police or his representative, the Senior Magistrate, the Attorney General or his representative, the President of the Chamber of Advocates and the President of the Chamber of Legal Procurators shall, twice a year, attend a meeting called by the Director, Criminal Courts and Tribunals, to draw up to the best of their knowledge -".

Amendment of article 605 of the Code.

**67.** Immediately after article 647B of the Code there shall be added the following new article:

Addition of new article to the Code.

"Cross-border cooperation, particularly in combating terrorism and cross-border crime.

647C. (1) Where the Attorney General receives a request made by a judicial, prosecuting or administrative authority of any place outside Malta or by an international court for -

- (a) the taking of and supply of dactyloscopic data; or
- (b) the taking and examination of a non-intimate sample; or
- (c) the DNA profile of a person suspected in that place of a relevant offence or of a person accused, in proceedings before the courts of that place or international tribunal, of a relevant offence,

C 444

the Attorney General shall communicate the request to a Magistrate, who shall, upon receiving the request, order the arrest of the requested person and the provisions of article 355AV(c) shall, *mutatis mutandis*, apply in the execution of a request communicated under this article.

(2) The Magistrate shall transmit the said data, sample or profile, together with any report or result of the examination, to the Attorney General.

(3) For the purposes of this article the terms "DNA profile" and "dactyloscopic data" shall have the meaning respectively assigned to them in article 548; "relevant offence" shall have the meaning assigned to it in article 435D.

(4) The provisions of article 649(2) and (5) shall *mutatis mutandis* apply to a request made under this article."

Amendment of  
article 673 of  
the Code.

**68.** Article 673 of the Code shall be amended as follows:

(a) in sub-article (2) thereof, for the words "the application shall not be allowed where the Attorney General objects to the application." there shall be substituted the words "the application shall not be allowed where the Attorney General objects to the application:", and immediately thereafter there shall be added the following new proviso:

"Provided that, where the Attorney General objects to the application, the court may impose on the accused that the costs for the deposit and upkeep of the property, held by the Registrar, connected with criminal proceedings or with the crime, be borne by the accused."; and

(b) immediately after sub-article (2) thereof, there shall be added the following new sub-article:

"(2A) Notwithstanding the provisions of sub-article (2), where property connected with criminal proceedings or with the crime is held by the Registrar, the owner of that property may request the court that he be allowed to effect such maintenance works as may be required on the property; if the owner of the property does not make the request mentioned in this sub-article or, having made the request, and the request having been granted by the



court, does not effect such maintenance works, the responsibility for any loss or damages suffered by the said property shall be borne by the said owner."

**69.** In article 676 of the Code, for the words "of this Code" there shall be substituted the words "of this Code or of any other law".

Amendment of article 676 of the Code.

**70.** In article 679 of the Code, for the words "of this Code" there shall be substituted the words "of this Code or of any other law".

Amendment of article 679 of the Code.

**71.** Immediately after article 685 of the Code there shall be added the following new article:

Addition of new article to the Code.

"Definition of property. 685A. For purposes of this Title "property" shall have the same meaning assigned to it by article 23B."

**72.** Immediately after article 698 of the Code there shall be added the following new article:

Addition of new article to the Code.

"Power to make regulations. 699. Notwithstanding the other provisions of this Code and of any other law, the Minister may make regulations to regulate the methods of service of judicial acts under this Code."

## PART II

### Amendments to the Medical and Kindred Professions Ordinance

**73.** This Part amends the Medical and Kindred Professions Ordinance, and it shall be read and construed as one with the Medical and Kindred Professions Ordinance, hereinafter in this Part referred to as "the Ordinance".

Amendment of the Medical and Kindred Professions Ordinance. Cap. 31.

**74.** Immediately after article 40A of the Ordinance there shall be added the following new articles:

Addition of new articles to the Ordinance.

"Offences related to the plant Khat.. 40B. (1) Any person who -  
(a) cultivates the plant Khat; or  
(b) imports or brings into, or exports from, Malta the plant Khat; or  
(c) has in his possession (otherwise than in the course of transit through Malta or the territorial waters thereof) the whole or any portion of the plant Khat; or

C 446

(d) sells or otherwise deals in the whole or any portion of the plant Khat; or

(e) with another one or more persons in Malta or outside Malta conspires for the purposes of selling or dealing in the plant Khat in Malta against the provisions of this article or who promotes, constitutes, organises or finances the conspiracy,

shall be guilty of an offence against this Ordinance:

Provided that the term "dealing" in this article shall have the same meaning as that assigned to it by article 120A(1B).

(2) Every person charged with an offence against this article shall be tried in the Criminal Court or before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the Attorney General may direct, and if he is found guilty shall, in respect of such offence, be liable -

(a) on conviction by the Criminal Court to a punishment of imprisonment of not less for a term of not less than twelve months but not exceeding ten years and to a fine (multa) of not less than four hundred and sixty-five euro and eighty seven cents (465.87) but not exceeding twenty three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73); or

(b) on conviction by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) to imprisonment for a term of not less than three months but not exceeding twelve months or to a fine (multa) of not less than four hundred and sixty-five euro and eighty-seven cents (465.87) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to both such imprisonment and fine.

Power of the Minister to amend the Fourth Schedule.

40Ċ. The Minister responsible for Justice may, after consultation with the Minister responsible for the Police and with the Attorney General, amend the Fourth Schedule to this Ordinance."

75. Article 120A of the Ordinance shall be amended as follows:

Amendment of article 120A of the Ordinance.

(a) immediately after sub-article (2D) thereof there shall be added the following new sub-articles

"(2E) (a) in giving a direction in accordance with sub-article (2), the Attorney General shall give due consideration to the guidelines included in the Fourth Schedule to this Ordinance;

(b) where the Attorney General has directed that the person accused is to be tried in the Criminal Court in accordance with sub-article (2), upon the termination of the inquiry, if the Court of Magistrates as a Court of Criminal Inquiry, decides that there are sufficient grounds for committing the accused for trial on indictment, the accused may by application to be filed in the Criminal Court within seven days from the conclusion of the inquiry demand of the said court to order that he be tried in the Court of Magistrates and the Criminal Court shall, after ordering the service of the application upon the Attorney General and granting him at least seven days to reply and after having heard oral submissions from the accused and the Attorney General if it considers this necessary, decide upon the court in which the accused is to be tried and the accused shall be tried in accordance with the decision of the Criminal Court:

C 448

Provided that an application in terms of this paragraph may only be filed once in the course of any proceedings:

Provided further that persons, who on the date of the coming into force of this sub-article, are awaiting trial in the Criminal Court further to a direction given in terms of sub-article (2) may, notwithstanding the other provisions of this paragraph, file an application in the said court in terms of this paragraph within one month from the said date.

(2F) Where, upon conviction by the Criminal Court as provided in paragraph (a) of sub-article (2), after considering all the circumstances of the case including the amount and nature of the drug involved, the character of the person concerned, the number and nature of any previous convictions, including convictions in respect of which an order was made under the Probation Act and the provisions of the Fourth Schedule, the court is of the opinion that the punishment provided for in paragraph (a) of sub-article (2) would be disproportionate it may, giving reasons, apply the punishment provided in paragraph (b) of sub-article (2)."

Addition of new Schedule to the Ordinance.

**76.** Immediately after the Third Schedule to the Ordinance there shall be added the following new Schedule:

#### **"FOURTH SCHEDULE**

##### **(Article 120A)**

#### **Guidelines on the exercise of discretion under article 120A**

*These guidelines apply to all accused persons aged 16 and over.*

In determining the court in which a person accused of an offence against this Ordinance is to be tried the harm or the potential harm caused by the offence charged shall be the principal consideration.

The quantity of the drug is a principal consideration in assessing harm. The purity need not necessarily be taken into account at the initial stage but it may be considered in determining whether a person initially referred for trial before the Criminal Court is to be referred for trial before the Court of Magistrates at a later stage.

The role played by the accused in the crime shall if sufficient information is available, also be taken into consideration.

In such cases a distinction should be made between persons who played a leading role, a significant role or a lesser role in the commission of the offence.

*A leading role in the commission of the offence may be indicated by the following:*

- that the accused organized or directed buying and selling of a drug on a commercial scale;
- that the accused had substantial links to and significant influence on other persons in a chain;
- that the accused had close links to the original source of the drugs;
- that the accused made substantial financial gain or had an expectation of substantial financial gain;
- that the accused used a legitimate business as a cover for buying or selling drugs;
- that the accused has abused a position of trust or of significant responsibility in the commission of the offence, for example when the accused is a prison employee or a legal or medical professional.

*A significant role in the commission of the offence may be indicated by the following:*

- that the accused had an operational or a management function within a chain;
- that the accused involved others in the operation either by exerting pressure or influence upon them or by intimidation or offer of reward;
- that the accused was motivated by the prospect of financial or other advantage, irrespective of whether the accused was acting alone or with others;
- that the accused appeared to be aware and to understand the scale of the operation;
- that the accused, not being a person abusing a position of trust or responsibility, supplied the drug to a prisoner for gain but without coercion.

C 450

*A lesser role in the commission of the offence may be indicated by the following:*

- that the accused has performed a limited role in the commission of the offence and has acted under the direction of others;
- that the accused was engaged by others to commit the offence by pressure, coercion or intimidation;
- that the accused got involved in the commission of the offence because of his naivete or because he was exploited by others;
- that the accused had no influence on those above him in a chain;
- that the accused had very little, if any, understanding of the scale of the operation;
- that taking all circumstances into account it is reasonable to conclude that the accused was involved in the commission of the offence solely for the purpose of obtaining drugs for his own use;
- that the accused made no financial gain from the offence, for example in cases involving a common purchase of a minimal quantity for no profit or the sharing of a minimal quantity between friends on a non-commercial basis.

Aggravating factors resulting from the law shall be taken into consideration.

*Other aggravating factors that may be taken into consideration may include:*

- the sophisticated nature of concealment of the drug and the nature of any attempts to avoid detection;
- any attempts made to conceal or to dispose of evidence;
- the exposure of others to exceptional danger such as when a drug is cut with harmful substances;
- high purity of the drug;
- that the accused has targeted places intended to locate vulnerable persons or has sought to supply drugs to minors;

- that others, especially children and non-users were present when the accused committed the offence.

*The following amounts involved in the offence, when the said amounts are known, can be taken as indicative that a person should not be referred for trial before the Criminal Court:*

ecstasy: less than 300 tablets

LSD: less than 300 squares

amphetamine: less than 300 grams

ketamine: less than 150 grams.

Any assistance which the accused may have rendered to the Police or to the prosecution may also be taken into account."

### **PART III**

#### **Amendments to the Conduct Certificates Ordinance**

**77.** This Part amends the Conduct Certificates Ordinance, and it shall be read and construed as one with the Conduct Certificates Ordinance, hereinafter in this Part referred to as "the Ordinance".

Amendment of the Conduct Certificates Ordinance. Cap. 77.

**78.** In article 2 of the Ordinance immediately after the words "in the First Schedule hereto." there shall be added the words "Any person entitled to a conduct certificate in accordance with Form A may also request a declaration as set out in Form C of the First Schedule."

Amendment of article 2 of the Ordinance.

**79.** In paragraph (d) of article 5 of the Ordinance the words "Probation Act." shall be substituted with the words "Probation Act;" and immediately thereafter there shall be added the following new paragraph:

Amendment of article 5 of the Ordinance.

"(e) it is a conviction of a person with no previous convictions in respect of which a punishment consisting of a fine (*multa*) of not more than two hundred euro was imposed and paid."

**80.** In article 8 of the Ordinance the words "in passing sentence, or at any time thereafter," shall be deleted.

Amendment of article 8 of the Ordinance.

C 452

**PART IV**  
**Amendment to the Dangerous Drugs Ordinance**

Amendment of  
the Dangerous  
Drugs  
Ordinance.  
Cap. 101.

**81.** This Part amends the Dangerous Drugs Ordinance and it shall be read and construed as one with the Dangerous Drugs Ordinance, hereinafter in this Part referred to as "the Ordinance".

Amendment of  
article 22 of the  
Ordinance.

**82.** Article 22 of the Ordinance shall be amended as follows:

(a) immediately after sub-article (2) thereof there shall be added the following new sub-articles:

"(2A) (a) in giving a direction in accordance with sub-article (2) the Attorney General shall give due consideration to the guidelines included in the Fourth Schedule to this Ordinance;

(b) where the Attorney General has directed that the person accused be tried in the Criminal Court in accordance with sub-article (2), upon the termination of the inquiry, if the Court of Magistrates, as a Court of Criminal Inquiry, decides that there are sufficient grounds for committing the accused for trial on indictment, the accused may, by application to be filed in the Criminal Court within seven days from the conclusion of the inquiry, demand the said court to order that he be tried in the Court of Magistrates and the Criminal Court shall, after ordering the service of the application upon the Attorney General and granting him at least seven days to reply and after having heard oral submissions from the accused and the Attorney General, if it considers this necessary, decide upon the court in which the accused is to be tried and the accused shall be tried in accordance with the decision of the Criminal Court:

Provided that an application in terms of this paragraph may only be filed once in the course of any proceedings:

Provided further that persons who, on the date of the coming into force of this sub-article, are awaiting trial in the Criminal Court further to a direction given in terms of sub-article (2) may, notwithstanding the other provisions of this paragraph, file an application in the said court in terms of this paragraph within one month from the said date.

(2B) Where, upon conviction by the Criminal Court as provided in paragraph (a) of sub-article (2), after considering all



the circumstances of the case including the amount and nature of the drug involved, the character of the person concerned, the number and nature of any previous convictions, including convictions in respect of which an order was made under the Probation Act and the provisions of the Fourth Schedule, the court is of the opinion that the punishment provided for in paragraph (a) of sub-article (2) would be disproportionate it may, giving reasons, apply the punishment provided in paragraph (b) of sub-article (2)."

**83.** Immediately after the Third Schedule to the Ordinance there shall be added the following new Schedule:

Addition of new  
Schedule to the  
Ordinance.

**"FOURTH SCHEDULE  
(Article 22)  
Guidelines on the exercise of discretion**

*These guidelines apply to all accused persons aged 16 and over.*

In determining the court in which a person accused of an offence against this Ordinance is to be tried the harm or the potential harm caused by the offence charged shall be the principal consideration.

The quantity of the drug is a principal consideration in assessing harm. The purity need not necessarily be taken into account at the initial stage but it may be considered in determining whether a person initially referred for trial before the Criminal Court is to be referred for trial before the Court of Magistrates at a later stage.

The role played by the accused in the crime shall, if sufficient information is available, also be taken into consideration.

In such cases a distinction should be made between persons who played a leading role, a significant role or a lesser role in the commission of the offence.

*A leading role in the commission of the offence may be indicated by the following:*

- that the accused organized or directed buying and selling of a drug on a commercial scale;
- that the accused had substantial links to and significant influence on other persons in a chain;
- that the accused had close links to the original source of the drugs;

C 454

- that the accused made substantial financial gain or had an expectation of substantial financial gain;
- that the accused used a legitimate business as a cover for buying or selling drugs;
- that the accused has abused a position of trust or of significant responsibility in the commission of the offence, for example when the accused is a prison employee or a legal or medical professional.

*A significant role in the commission of the offence may be indicated by the following:*

- that the accused had an operational or a management function within a chain;
- that the accused involved others in the operation either by exerting pressure or influence upon them or by intimidation or offer of reward;
- that the accused was motivated by the prospect of financial or other advantage, irrespective of whether the accused was acting alone or with others;
- that the accused appeared to be aware and to understand the scale of the operation;
- that the accused, not being a person abusing a position of trust or responsibility, supplied the drug to a prisoner for gain but without coercion.

*A lesser role in the commission of the offence may be indicated by the following:*

- that the accused has performed a limited role in the commission of the offence and has acted under the direction of others;
- that the accused was engaged by others to commit the offence by pressure, coercion or intimidation;
- that the accused got involved in the commission of the offence because of his naivete or because he was exploited by others;
- that the accused had no influence on those above him in a chain;

- that the accused had very little, if any, understanding of the scale of the operation;
- that taking all circumstances into account it is reasonable to conclude that the accused was involved in the commission of the offence solely for the purpose of obtaining drugs for his own use;
- that the accused made no financial gain from the offence, for example in cases involving a common purchase of a minimal quantity for no profit or the sharing of a minimal quantity between friends on a non-commercial basis.

Aggravating factors resulting from the law shall be taken into consideration.

*Other aggravating factors that may be taken into consideration may include:*

- the sophisticated nature of concealment of the drug and the nature of any attempt to avoid detection;
- any attempts made to conceal or to dispose of evidence;
- the exposure of others to exceptional danger such as when a drug is cut with harmful substances;
- high purity of the drug
- that the accused has targeted places intended to locate vulnerable persons or has sought to supply drugs to minors;
- that others, especially children and non-users were present when the accused committed the offence.

*The following amounts involved in the offence, when the said amounts are known, can be taken as indicative that a person should not be referred for trial before the Criminal Court:*

- heroin and cocaine: less than 100 grams
- cannabis: less than 300 grams

Assistance which the accused may have rendered to the Police or to the prosecution may also be taken into account."

**84.** Article 34 of the Ordinance shall be re-numbered as sub-article (1) thereof and in sub-article (1) as re-numbered for the words "any of the Schedules to this Ordinance." there shall be substituted

Amendment of article 34 of the Ordinance.

C 456

the words "the First, the Second and the Third Schedules to this Ordinance." and immediately thereafter there shall be added the following sub-article:

"(2) The Minister responsible for Justice may, after consultation with the Minister responsible for the Police and with the Attorney General, amend the Fourth Schedule to this Ordinance."

## **PART V**

### **Amendment to the Central Bank of Malta Act**

Amendment of the Central Bank of Malta Act. Cap. 204.

**85.** This Part amends the Central Bank of Malta Act and it shall be read and construed as one with the Central Bank of Malta Act, hereinafter in this Part referred to as "the Act".

Amendment of article 52 of the Act.

**86.** In article 52 of the Act the words "in relation to the euro" shall be deleted.

Amendment of article 53 of the Act.

**87.** In article 53 of the Act the words "and in the case where the offences relate to the euro," shall be deleted.

## **PART VI**

### **Amendment of the Extradition Act**

Amendment of the Extradition Act. Cap. 276.

**88.** This Part amends the Extradition Act and it shall be read and construed as one with the Extradition Act, hereinafter in this Part referred to as "the Act".

Amendment of article 2 of the Act.

**89.** In article 2 of the Act, immediately before the definition "arrangement" there shall be added the following new definition:

" "accused person" includes a person, in respect of whom a warrant is issued, who is wanted in a designated foreign country for the purposes of conducting a criminal prosecution for the commission of an offence specified in the warrant."

## **PART VII**

### **Amendment of the Prevention of Money Laundering Act**

Amendment of the Prevention of Money Laundering Act. Cap. 373.

**90.** This Part amends the Prevention of Money Laundering Act and it shall be read and construed as one with the Prevention of Money Laundering Act, hereinafter in this Part referred to as "the Act".

Amendment of article 3 of the Act.

**91.** In subparagraph (ii) of paragraph (a) of sub-article (2A) of article 3 of the Act for the words "or to both such fine and imprisonment." there shall be substituted the words "or to both

such fine and imprisonment:" and immediately thereafter there shall be added the following proviso to paragraph (a):

"Provided that:

(i) in giving a direction in accordance with this sub-article the Attorney General shall give due consideration to the age of the offender, the prior conduct of the offender, the value of the property laundered and all the other circumstances of the offence;

(ii) where the Attorney General has directed that the person accused is to be tried in the Criminal Court in accordance with this sub-article, upon the termination of the inquiry, if the Court of Magistrates as a Court of Criminal Inquiry decides that there are sufficient grounds for committing the accused for trial on indictment, the accused may, by application to be filed in the Criminal Court within seven days from the conclusion of the inquiry, demand the said court to order that he be tried in the Court of Magistrates and the Criminal Court shall, after ordering the service of the application upon the Attorney General and granting him at least seven days to reply and after having heard oral submissions from the accused and the Attorney General if it considers this necessary, decide upon the Court in which the accused is to be tried and the accused shall be tried in accordance with the decision of the Criminal Court:

Provided that an application in terms of this sub-paragraph may only be filed once in the course of any proceedings:

Provided further that persons who on the date of the coming into force of this sub-paragraph are awaiting trial in the Criminal Court further to a direction given in terms of this sub-article may, notwithstanding the other provisions of this sub-article, file an application in the said court in terms of this sub-paragraph within one month from the said date;

(iii) where upon conviction the accused is liable to the punishment provided in terms of sub-paragraph (a)(i) of this sub-article and the court competent to sentence the accused is of the opinion that when it takes into account the age of the offender, the prior conduct of the offender, the value of the property laundered and all the other

circumstances of the offence, the punishment provided for in sub-paragraph (a)(i) of this sub-article would not be appropriate, it may, giving reasons apply the punishment provided in sub-paragraph (ii) of this sub-article."

## PART VIII

### Amendment of the Lotteries and Other Games Act

Amendment of  
the Lotteries  
and Other  
Games Act.  
Cap. 438.

**92.** This Part amends the Lotteries and Other Games Act and it shall be read and construed as one with the Lotteries and Other Games Act, hereinafter in this Part referred to as "the Act".

Amendment of  
article 67 of the  
Act.

**93.** In the third proviso to sub-article (1) of article 67 of the Act for the words "not more than seven thousand euro (€7,000.00)." there shall be substituted the words "not more than seven thousand euro (€7,000.00):" and immediately thereafter there shall be added the following new proviso:

"Provided further that where the court, after convicting the accused, is of the opinion that when it takes into account the age of the offender, the previous conduct of the offender, the effects of the offence, the means through which the offence was committed and all other circumstances of the offence, the punishment provided for in sub-article (1) and in the first proviso thereto is not appropriate, it may, notwithstanding the other provisions of the third proviso of this sub-article, apply the punishments established in the said third proviso."

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### Objects and Reasons

The objects of this Bill are to implement the provisions of Council Framework Decision 2008/675/JHA on taking account of convictions in Member States of the European Union in the course of new criminal proceedings, to implement the provisions of Council Framework Decision 2008/841/JHA on the fight against organised crime, to implement Council Decision 2008/615/JHA on the stepping-up of cross-border cooperation, particularly in combating terrorism and cross-border crime.

Furthermore, amendment of various laws are also being introduced to allow the prosecution to classify the gravity of certain offences and determine the court in which the persons accused of those offences are to be tried for the purpose of providing guidelines on the manner of such classification, for providing opportunity to the accused to seek judicial review of such classification and for providing for a power of the court to apply a lesser scale of punishments notwithstanding such classification. The Bill also makes

amendments to the Conduct Certificates Ordinance for the purposes of making provision in respect of the circumstances in which a Form C declaration may be sought and for providing for certain first offences.