Abbozz ta' Liġi
msejjaħ

ATT li jemenda Diversi Liġijiet li jirrigwardaw Materji Kriminali.

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2014 li jemenda Diversi Liġijiet li jirrigwardaw materji kriminali. Titolu fil-qosor.

TAQSIMA I

Emendi għall-Kodiċi Kriminali

2. (1) Din it-Taqsima temenda l-Kodiċi Kriminali, u għandha tinqara u tiftiehem ħaġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi". Emendi tal-Kodiċi Kriminali. Kap. 9.

(2) Id-dispożizzjonijiet tal-artikolu ġdid 534AF tal-Kodiċi, kif miżjud bl-artikolu 23 ta' dan l-Att, għandhom jidħlu fis-seħħ f'dik id-data li l-Ministru responsabbli għall-Ġustizzja jista' jistabbilixxi, b'avviż fil-Gazzetta.

3. L-artikolu 23D tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 23D tal-Kodiċi.

(a) minflok is-subartikolu (2) tiegħu għandu jidħol dan li ġej:

"(2) Kull min ikun meħtieġ mir-Reġistratur jipprovdi informazzjoni għall-finijiet tas-subartikolu (1)

għandu jaderixxi mat-talba fi żmien tletin ġurnata mid-data ta' meta tkun riċevuta t-talba."; u

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

"(3) It-talba magħmula mir-Reġistratur, u kull risposta tagħha skont dan l-artikolu, tista' issir bil-posta elettronika.".

Emenda tal-artikolu 202 tal-Kodiċi.

4. L-artikolu 202 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "tiżdied bi grad" għandhom jidħlu l-kliem "tiżdied bi grad sa żewġ gradi";

(b) fil-paragrafu (g) tiegħu minflok il-kliem "ma tkunx għalqet l-età ta' disa' snin" għandhom jidħlu l-kliem "tkun minuri";

(ċ) fil-paragrafu (i) tiegħu minflok il-kliem "ikun jista' jisma' x'ikun qed isir." għandhom jidħlu l-kliem "ikun jista' jisma' x'ikun qed isir;"; u

(d) minnufih wara l-paragrafu (i) tiegħu, għandhom jiżdiedu dawn il-paragrafi ġodda li ġejjin:

"(j) id-delitt, jew id-delitti relatati, saru ripetutament;

(k) id-delitt sar kontra persuna vulnerabbli fi ħdan it-tifsira tal-artikolu 208AĊ(2);

(l) id-delitt sar bit-theddida ta' arma;

(m) id-delitt wassal għal ħsara ħarxa fiżika jew psikoloġika għall-vittma;

(n) min wettaq id-delitt ikun qabel ġie misjub ħati ta' delitt ta' xorta simili.".

Emenda tal-artikolu 204 tal-Kodiċi.

5. L-artikolu 204 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "tmintax-il xahar sa erba' snin" għandhom jidħlu l-kliem "sentejn sa ħames snin"; u

(b) fil-proviso li jinsab mas-subartikolu (1) tiegħu, minflok il-kliem "sentejn sa sitt snin" għandhom jidħlu l-kliem "tlieta sa disa' snin".

6. L-artikolu 204A tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 204A tal- Kodiċi.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "sentejn sa sitt snin" għandhom jidħlu l-kliem "tlieta sa tnax-il sena";

(b) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem "vjolenza jġiegħel" għandhom jidħlu l-kliem "vjolenza, theddid, sfurzar jew forza iġġiegħel"; u

(ċ) fil-paragrafu (ċ) tas-subartikolu (2) tiegħu, minflok il-kliem "fil-kuntest tal-artikolu 83A(1)." għandhom jidħlu l-kliem "fil-kuntest tal-artikolu 83A(1);" u minnufih wara għandu jiżdied dan il-paragrafu ġdid li ġej:

"(d) fejn l-akkużat jabbuża minn pożizzjoni rikonoxxuta ta' fiduċja, awtorità jew influwenza fuq persuna taħt l-età.".

7. L-artikolu 204B tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 204B tal-Kodiċi.

(a) minflok is-subartikolu (1) tiegħu, għandu jidħol dan is-subartikolu ġdid li ġej

"(1) Kull min sabiex jissodisfa ż-żina ta' xi persuna oħra iqabbad, jingaġġa jew jikkawża persuna taħt l-età fil-prostituzzjoni, jew jipparteċipa f'atti pornografiċi jew jiggwadanja minn jew b'mod ieħor jisfrutta persuna taħt l-età għal dawn l-għanijiet, jeħel, meta jinstab ħati, priġunerija għal żmien minn sentejn sa disa' snin, bir-reklużjoni jew mingħajrha.";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "sentejn sa sitt snin" għandhom jidħlu l-kliem "tliet snin sa tnax-il sena"; u

(ċ) fil-paragrafu (ċ) tas-subartikolu (2) tiegħu, minflok il-kliem "fil-kuntest tal-artikolu 83(A)(1)." għandhom jidħlu l-kliem "fil-kuntest tal-artikolu 83A(1);" u minnufih wara għandu jiżdied dan il-paragrafu ġdid li ġej:

"(d) meta l-akkużat jabbuża minn pożizzjoni rikonoxxuta ta' fiduċja, awtorità jew influwenza fuq persuna taħt l-età.".

8. L-artikolu 204Ċ tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 204Ċ tal-Kodiċi.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "iżjed minn sentejn" għandhom jidħlu l-kliem "iżjed minn ħames

snin";

(b) is-subartikolu (2) tiegħu, għandu jiġi emendat kif ġej:

(i) minflok il-kliem "sentejn sa sitt snin" għandhom jidħlu l-kliem "erba' sa tnax-il sena";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "bi vjolenza" għandhom jidħlu l-kliem "bi vjolenza, sforz, forza jew theddid";

(iii) fil-paragrafu (ċ) tiegħu, il-kliem "u tiġri xi waħda miċ-ċirkostanzi msemmija fil-paragrafu (d)" għandhom jiġu mħassra; u

(iv) fil-paragrafu (d) tiegħu, il-kliem "u (ċ)" għandhom jiġu mħassra.

Emenda tal-artikolu 204D tal-Kodiċi.

9. L-artikolu 204D tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "tmintax-il xahar sa ħames snin" għandhom jidħlu l-kliem "tlieta sa għaxar snin";

(b) fil-paragrafu (a) tiegħu minflok il-kliem "iġiegħel persuna" għandhom jidħlu l-kliem "iġiegħel, jagħmel pressjoni fuq, jisforza jew jhedded persuna";

(ċ) l-artikolu 204D għandu jiġi enumerat mill-ġdid bħala l-artikolu 204D(1); u

(d) minnufih wara l-artikolu 204D(1), kif enumerat mill-ġdid, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(2) Il-piena għar-reat fis-subartikolu (1) għandha tiżdied bi grad wieħed, bir-reklużjoni jew mingħajrha, f'kull wieħed mill-każijiet li ġejjin:

(a) il-ħati xjentement jew b'nuqqas ta' ħsieb ikun ipperikola l-ħajja tal-persuna ta' taħt l-età;

(b) ir-reat ikun jinvolvi l-vjolenza jew offiża gravi fuq dik il-persuna;

(ċ) ir-reat isir bl-involviment ta' għaqda kriminali fil-kuntest tal-artikolu 83A(1);

(d) meta l-ħati jabbuża minn xi pożizzjoni rikonoxxuta li jkollu ta’ fiduċja, awtorità jew influwenza fuq persuna taħt l-età.".

Emenda tal-artikolu 205 tal-Kodiċi.

10. L-artikolu 205 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "għal żmien mhux iżjed minn sentejn, bir-reklużjoni jew mingħajrha" għandhom jidħlu l-kliem "għal żmien mhux iżjed minn ħames snin, bir-reklużjoni jew mingħajrha"; u

(b) fil-proviso tiegħu, minflok il-kliem "l-piena tkun ta’ priġunerija minn sena sa erba snin" għandhom jidħlu l-kliem "l-piena tkun ta’ priġunerija minn sentejn sa seba’ snin".

Emenda tal-artikolu 208A tal-Kodiċi.

11. Fis-subartikolu (1) tal-artikolu 208A tal-Kodiċi minnufih wara l-kliem "tbiegħ," għandhom jidħlu l-kliem "tissupplixxi,".

Emenda tal-artikolu 208AA tal-Kodiċi.

12. L-artikolu 208AA tal-Kodiċi għandu jiġi emendat kif ġej:

(a) l-artikolu 208AA għandu jiġi enumerat mill-ġdid bħala l-artikolu 208AA(1);

(b) fl-artikolu 208AA(1) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "jista’, meta l-proposta tkun segwita b’atti materjali li jwasslu għal dik il-laqgħa, jista’, meta jinsab ħati, jeħel il-piena ta’ priġunerija għal żmien minn tnax-il xahar sa erba snin" għandhom jidħlu l-kliem "jeħel, meta l-proposta tkun segwita b’atti materjali li jwasslu għal dik il-laqgħa, meta jinsab ħati, il-piena ta’ priġunerija għal żmien minn sentejn sa ħames snin"; u

(ċ) minnufih wara l-artikolu 208AA(1) tiegħu, kif enumerat mill-ġdid, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(2) Il-piena għar-reat fis-subartikolu (1) għandha tiżdied bi grad wieħed, bir-reklużjoni jew mingħajrha, f’kull wieħed mill-każijiet li ġejjin:

(a) il-ħati xjentement jew b’nuqqas ta’ ħsieb ikun ipperikola l-ħajja tal-persuna ta’ taħt l-età;

(b) ir-reat ikun jinvolvi l-vjolenza jew offiża gravi fuq dik il-persuna;

(ċ) ir-reat isir bl-involviment ta’ għaqda

kriminali fil-kuntest tal-artikolu 83A(1);

(d) meta l-ħati jabbuża minn xi pożizzjoni rikonoxxuta li jkollu ta' fiduċja, awtorità jew influwenza fuq persuna taħt l-età.".

Emenda tal-artikolu 208AB tal-Kodiċi.

13. L-artikolu 208AB tal-Kodiċi għandu jiġi emendat kif ġej:

(a) l-artikolu 208AB għandu jiġi enumerat mill-ġdid bħala l-artikolu 208AB(1);

(b) fl-artikolu 208AB(1), kif jiġi enumerat mill-ġdid, minflok il-kliem "jista', meta jinsab ħati, jeħel il-piena ta' priġunerija minn tnax-il xahar għal sentejn" għandhom jidħlu l-kliem "jeħel, meta jinsab ħati, il-piena ta' priġunerija għal żmien minn sentejn sa ħames snin"; u

(ċ) minnufih wara l-artikolu 208AB(1), kif enumerat mill-ġdid, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(2) Il-piena għar-reat fis-subartikolu (1) għandha tiżdied bi grad wieħed, bir-reklużjoni jew mingħajrha, f'kull wieħed mill-każijiet li ġejjin:

(a) il-ħati xjentement jew b'nuqqas ta' ħsieb ikun ipperikola l-ħajja tal-persuna ta' taħt l-età;

(b) ir-reat ikun jinvolvi l-vjolenza jew offiża gravi fuq dik il-persuna;

(ċ) ir-reat isir bl-involviment ta' għaqda kriminali fil-kuntest tal-artikolu 83A(1);

(d) meta l-ħati jabbuża minn xi pożizzjoni rikonoxxuta li jkollu ta' fiduċja, awtorità jew influwenza fuq persuna taħt l-età.".

Emenda tal-artikolu 208AĊ tal-Kodiċi.

14. Is-subartikolu (1) tal-artikolu 208AĊ tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minflok il-kliem "208A(1) u 208A(1A)," għandhom jidħlu l-kliem "208A(1) sa 208AB it-tnejn inklużi,";

(b) fil-paragrafu (a) tiegħu, minnufih wara l-kliem "meta r-reat" għandhom jiżdiedu l-kliem "jinvolvi l-użu ta' vjolenza jew"; u

(ċ) fil-paragrafu (f) tiegħu, minflok il-kliem "dan is-

sub-titolu." għandhom jidħlu l-kliem "dan is-sub-titolu;" u minnufih wara għandhom jiżdiedu dawn il-paragrafi ġodda li ġejjin:

"(g) meta r-reat ġie mwettaq minn membru tal-familja tal-wild, persuna li tkun qed tgħix mal-wild jew persuna li tkun abbużat b'pożizzjoni ta' fiduċja rikonoxxuta jew awtorità;

(h) meta r-reat ġie mwettaq skont id-Deċiżjoni Kwadru tal-Kunsill 2008/841/JHA tal-24 ta' Ottubru 2008 dwar il-ġlieda kontra l-kriminalità organizzata;

(i) meta l-ħati xjentement jew b'nuqqas ta' ħsieb ikun ipperikola l-ħajja ta' wild:

Iżda meta l-aggravju tal-piena fir-rigward taċ-ċirkostanzi msemmija f'dan l-artikolu diġà previst f'dan il-Kodiċi jew f'xi liġi oħra, għandha tiġi mogħtija l-piena aktar gravi.".

15. Fis-subartikolu (1) tal-artikolu 208B, minnufih wara l-kliem "208A(1), (1A)," għandhom jidħlu l-kliem "(1B),". Emenda tal-artikolu 208B tal-Kodiċi.

16. Minnufih wara l-artikolu 208B tal-Kodiċi għandu jiżdied dan l-artikolu ġdid li ġej: Żjieda ta' artikolu ġdid mal-Kodiċi.

"Għajnuna jew assistenza.

208Ċ. Kull min jgħin, jassisti jew iġiegħel li jsir xi reat taħt l-artikoli 204, 204A sa 204D it-tnejn inklużi, u l-artikoli 208A sa 208AB, it-tnejn inklużi, ikun ħati ta' reat u jeħel meta jinstab ħati l-piena stabbilita għal dak ir-reat li jkun għen, assista jew instiga.".

17. Minnufih wara l-artikolu 209 tal-Kodiċi għandu jiżdied dan l-artikolu ġdid li ġej: Żjieda ta' artikolu ġdid mal-Kodiċi.

"Ma japplikawx id-dispożizzjoni tal-artikolu 21.

209A. Id-dispożizzjonijiet tal-artikolu 21 m'għandhomx japplikaw fir-rigward ta' persuna li tkun instabet ħatja ta' reat taħt dan is-subtitolu.

18. Minflok is-subartikolu (6) tal-artikolu 370 tal-Kodiċi għandu jidħol dan is-subartikolu ġdid li ġej: Emenda tal-artikolu 370 tal-Kodiċi.

"(6) Id-dispożizzjonijiet tal-artikolu 392A għandhom japplikaw ukoll, *mutatis mutandis*, għal reati li tagħmel minnhom il-Qorti tal-Maġistrati bħala qorti ta' ġudikatura

kriminali skont id-dispożizzjonijiet ta’ dan l-artikolu.".

Emenda tal-artikolu 392A tal-Kodiċi.

19. L-artikolu 392A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, wara l-kliem "bi tweġiba għall-mistoqsija fl-artikolu 392(1)(b)" għandhom jidħlu l-kliem "u fi kwalunkwe stadju tal-proċeduri"; u minflok il-kliem "id-disposizzjonijiet tal-artikolu 453(1) għandhom *mutatis mutandis* japplikaw bla ħsara għad-disposizzjonijiet li ġejjin ta’ dan l-artikolu." għandhom jidħlu l-kliem "il-qorti twissih b’mod l-aktar solenni fuq il-konsegwenzi legali ta’ dik it-tweġiba, u tagħtih ftit taż-żmien biex jerġa’ lura minnha.";

(b) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "li bih ikun akkużat" għandhom jidħlu l-kliem, ", din it-tweġiba għandha tiġi rreġistrata, u";

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "għalkemm l-akkużat ikun stqarr, tordna li l-kumpilazzjoni titmexxa" għandhom jidħlu l-kliem "għalkemm l-akkużat ikun stqarr li hu ħati, tordna li l-proċeduri jkomplu jitmexxew";

(d) minflok is-subartikolu (5) tiegħu għandu jidħol dan li ġej:

> "(5) Fi kwalunkwe stadju tal-proċeduri, l-imputat u l-Avukat Ġenerali jistgħu jilħqu ftehim u jitolbu lill-qorti permezz ta’ rikors, sabiex fil-każ li l-imputat jiddikjara ruħu ħati, il-Qorti tal-Maġistrati bħala qorti ta’ ġudikatura kriminali tapplika dik is-sanzjoni jew miżura jew, meta jkun hekk provdut bil-liġi, kombinazzjoni ta’ sanzjonijiet jew miżuri, tax-xorta u l-kwantità miftehma bejniethom u li dwarhom l-imputat ikun jista’ jingħata sentenza meta jinsab ħati għar-reat jew ir-reati li jiġi akkużat bihom."; u

(e) minnufih wara s-subartikolu (5) tiegħu, kif sostitwit, għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

> "(6) Jekk il-qorti tkun sodisfatta li s-sanzjoni jew il-miżura, jew il-kombinazzjoni ta’ sanzjonijiet u miżuri, mitluba kif provdut fis-subartikolu preċedenti jkunu tali li kien ikun leġittimu illi hija timponi mas-sejbien ta’ ħtija għar-reat li dwaru l-imputat ikun ammetta l-ħtija, u ma jkollhiex għaliex tordna li jitkompla l-każ skont dak imsemmi fis-subartikolu (3) jew għal xi raġuni oħra li tiċħad it-talba, u wara li tispjega lill-imputat bi kliem ċar x’ikunu l-konsegwenzi tat-talba tiegħu, il-qorti għandha, meta ssir l-ammissjoni ta’ ħtija tal-imputat, tgħaddi biex

tagħti s-sentenza lilha indikata mill-partijiet fejn tiddikjara fid-deċiżjoni tagħha li s-sentenza li tkun qegħda tingħata tkun qegħda hekk tiġi mogħtija fuq talba tal-partijiet.

(7) Id-dispożizzjonijiet tal-artikolu 453A(3) sa (5), iż-żewġ subartikoli inklużi, għandhom *mutatis mutandis* japplikaw għall-proċeduri taħt dan l-artikolu.".

20. Minnufih wara l-artikolu 392A tal-Kodiċi għandu jiżdied dan l-artikolu ġdid li ġej: Żjieda ta' artikolu ġdid mal-Kodiċi.

"Ammissjoni ta' ħtija.

392B. (1) Fil-każ li l-akkużat, bi tweġiba 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 priġunerija, il-qorti għandha, wara li tkun ġiet reġistrata l-ammissjoni ta' ħtija:

(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-Reġistratur tal-Qorti Kriminali li saret ammissjoni ta' ħtija.

(2) L-Avukat Ġenerali għandu ż-żmien ta' xahar biex jippreżenta l-att ta' akkuża, illi jibda jgħodd minn dak inhar li jirċievi l-atti imsemmijin fl-aħħar artikolu qabel dan. Dan iż-żmien għandu, fuq talba tal-Avukat Ġenerali, jiġi mġedded mill-qorti għal ħmistax-il jum ieħor, u, f'egħluq dan iż-żmien, mill-President ta' Malta għal ħmistax-il jum ieħor, u, meta l-fatt ikun tali illi biex tinstab ix-xorta sewwa tar-reat ikun meħtieġ bil-fors li jgħaddi żmien aktar twil, għal dan iż-żmien itwal:

Iżda l-Avukat Ġenerali jkollu d-dritt illi minflok ma jippreżenta att ta’ akkuża skont dan is-subartikolu jippreżenta 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 u f’dan il-każ dik l-għażla tal-Avukat Ġenerali ma għandha tagħti lok għal ebda nullità jew difett ieħor fil-proċeduri minkejja d-dispożizzjonijiet l-oħra ta’ dan il-Kodiċi jew ta’ kull liġi oħra.

(3) Minkejja d-dispożizzjonijiet tal-proviso għas-subartikolu (2), meta l-Avukat Ġenerali jagħżel li jippreżenta att ta’ akkuża skont id-dispożizzjonijiet tas-subartikolu (2), id-dispożizzjonijiet tat-Titolu V tat-Taqsima II tat-Tieni Ktieb għandhom, *mutatis mutandis*, japplikaw għal att ta’ akkuża ppreżentat wara li tkun saret l-ammissjoni ta’ ħtija taħt dan l-artikolu.

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

Emenda tal-artikolu 500 tal-Kodiċi.

21. Minnufih wara s-subartikolu (2) tal-artikolu 500 tal-Kodiċi, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(3) Fuq kull appell kontra l-liberazzjoni, kemm fir-rigward ta’ parti mill-akkuża jew kollha kemm hi, il-Qorti tal-Appell Kriminali għandha tilqa’ l-appell mill-Avukat Ġenerali jekk taħseb li -

(a) fuq bażi ta’ evidenza ppreżentata l-Qorti l-akkużat ġie illiberat bi żball;

(b) waqt il-proċeduri seħħew irregolaritajiet, jew f’każ ta’ misinterpretazzjoni jew applikazzjoni skoretta tal-liġi li jkunu affettwaw il-verdett:

Iżda l-qorti tista, sakemm ma tkunx tal-opinjoni li dak il-punt li sar waqt appell taħt il-paragrafu (b) jkun deċiż favur l-Avukat Ġenerali, tiċħad l-appell f’każ li jkun ikkunsidrat li ma sar ebda nuqqas ta’ ġustizzja.

(4) Fuq bażi ta' appell magħmul skont is-subartikolu (3), il-Qorti tal-Appell Kriminali għandha tiddetermina, tvarja jew tmur lura mill-verdett li minnu sar l-appell.

22. Minnufih wara l-artikolu 526 tal-Kodiċi għandu jiżdied dan l-artikolu ġdid li ġej: Żjieda ta' artikolu ġdid mal-Kodiċi.

"Dokumenti proċedurali.

526A. Skont u b'konformità ma' xi trattat, konvenzjoni, ftehim jew patt bejn Malta u pajjiż ieħor jew li japplika għaż-żewġ pajjiżi jew li fih żewġ pajjiżi huma partijiet, dokumenti proċedurali jew kull att ta' proċedura jistgħu jintbagħtu direttament bil-posta lill-persuna li tinsab fit-territorju tal-pajjiż barrani f'lingwa li dik il-persuna tifhem:

Iżda dawk id-dokumenti proċedurali għandhom ikunu akkumpanjati minn rapport li jindika lil dik il-persuna r-rimedji disponibbli u li dik l-informazzjoni dwar id-drittijiet u dmirijiet tagħha li jikkonċernaw dak id-dokument jistgħu jinkisbu mill-awtorità emittenti jew minn awtorità kompetenti oħra f'Malta.".

23. Minnufih wara l-artikolu 534 tal-Kodiċi għandhom jiżdiedu t-Titolu u dawn l-artikoli ġodda li ġejjin: Żjieda ta' Titolu u artikoli ġodda mal-Kodiċi.

"Titolu VI

Fuq id-Drittijiet tal-Persuni Suspettati u l-Akkużati

Drittijiet ta' persuni suspettati u akkużati.

534A. Id-dispożizzjonijiet ta' dan it-Titolu għandhom japplikaw għal persuna mill-ħin li tkun mgħarrfa mill-Pulizija Eżekuttiva li hemm suspett li wettqet reat (hawn iżjed 'il quddiem imsejjħa bħala "persuna suspettata") u għal persuna li tinstab akkużata jew imputata li wettqet reat (hawn iżjed 'il quddiem imsejjħa bħala "akkużata") sa ma jkunu konklużi l-proċeduri kriminali, inkluż, fejn hu applikabbli, l-għoti tas-sentenza u d-deċiżjoni tal-appell:

Iżda "l-proċeduri kriminali" għandhom jinkludu investigazzjonijiet mill-Pulizija Eżekuttiva u proċeduri ta' estradizzjoni.

Dritt għall-informazzjoni u Ittra bi Drittijiet.

534AB. (1) Bla ħsara għad-dispożizzjonijiet tal-artikoli 355AĊ, 355AS, 392 u 445, għandu jkun id-dmir tal-Pulizija jew tal-Qorti, skont kif ikun il-każ, li tinforma lill-persuna suspettata jew lill-akkużat bla ebda dewmien bid-drittijiet proċedurali li ġejjin:

(a) id-dritt ta' aċċess għal avukat;

(b) kull dritt għal parir legali mingħajr ħlas u l-kundizzjonijiet għall-kisba ta' dak il-parir;

(ċ) id-dritt li jkun infurmat b'mod dettaljat kif neċessarju sabiex jiġi salvagwardjat li jkun hemm proċedura ġusta u l-eżerċitar effettiv tad-drittijiet tad-difiża għar-reat li jkun twettaq mill-persuna suspettata jew l-akkużat:

Iżda l-persuna suspettata jew l-akkużat għandhom minnufih jiġu infurmati dwar xi tibdil li jkun sar fl-informazzjoni li tkun ingħatat skont dan l-artikolu fejn ikun neċessarju sabiex jiġi salvagwardjat li jkun hemm proċedura ġusta;

(d) id-dritt għall-interpretazzjoni u traduzzjoni;

(e) id-dritt li jibqa sieket.

(2) L-informazzjoni pprovduta taħt is-subartikolu (1) għandha tingħata verbalment jew bil-miktub, b'lingwa sempliċi u aċċessibbli, b'kunsiderazzjoni għall-bżonnijiet partikolari tal-persuni vulnerabbli, suspettati jew akkużati fil-kuntest tal-artikolu 208AĊ(2).

(3) Huwa d-dmir tal-Pulizija li minnufih tipprovdi lill-persuna arrestata jew detenuta Ittra bi Drittijiet kif elenkata fl-Iskeda E u l-Pulizija għandha tagħti lill-imsemmija persuna l-opportunità li taqraha u li żżommha fil-pussess tagħha waqt li tkun detenuta. L-Ittra bi Drittijiet għandha tkun miktuba f'lingwa li l-persuna tifhem:

Iżda meta l-Ittra bi Drittijiet ma tkunx disponibbli f'lingwa xierqa, il-persuna suspettata jew l-akkużat għandhom jiġu infurmati bid-drittijiet li huma intitolati għalihom b'mod verbali f'lingwa li jifhmu u l-Ittra bi Drittijiet għandha tingħatalhom mill-aktar fis possibbli f'lingwa li jifhmu.

(4) L-informazzjoni pprovduta skont dan l-artikolu għandha tinżamm mill-Pulizija jew mill-Qorti skont il-każ.

Dritt għall-interpretazzjoni

534AĊ. (1) Bla ħsara għad-dispożizzjonijiet tal-artikoli 355AĊ, 451 u 516(2) meta l-persuna suspettata ma titkellimx jew ma tifhimx il-lingwa li qed tintuża waqt il-proċeduri kriminali, skont ma jkun il-każ, għandha tingħata, bla ebda dewmien, interpretu waqt il-proċeduri msemmija, inkluż waqt l-interrogazzjoni li ssir mill-pulizija.

(2) Is-servizz ta' interpretazzjoni għandu jkun disponibbli għall-komunikazzjoni bejn il-persuna suspettata jew l-akkużat u l-avukat tiegħhom f'konnessjoni diretta ma' kull interrogazzjoni jew mas-smigħ tal-kawża matul il-proċeduri jew fil-preżentazzjoni ta' appell jew rikorsi proċedurali oħra.

(3) Id-dritt għall-interpretazzjoni taħt is-subartikoli (1) u (2) għandhom japplikaw għall-persuni li għandhom impediment fis-smigħ jew fit-taħdid.

(4) Għandu jkun fid-dmir tal-Pulizija Eżekuttiva u tal-qorti, skont il-każ, li jivverifikaw jekk il-persuna suspettata jew l-akkużat jifhmux u jitkellmux il-lingwa li tkun qed tintuża fil-proċeduri kriminali u jekk hemmx il-bżonn ta' assistenza minn interpretu.

(5) Xejn f'dan l-artikolu ma għandu jinftiehem li qed jipprekludi l-persuna suspettata jew l-akkużat li jitolbu li kull tip ta' deċiżjoni li, f'kwalunkwe stadju tal-proċeduri kriminali, tgħid li ma hemmx il-ħtieġa għall-interpretazzjoni tkun ikkontestata, u, meta l-intepretazzjoni tkun ingħatat, il-possibilità li wieħed jilmenta dwar il-kwalità tal-interpretazzjoni li mhijiex suffiċjenti sabiex tissalvagwardja proċedura ġusta.

(6) Is-servizz ta' interpretazzjoni pprovdut taħt dan l-artikolu għandu jkun wieħed ta' kwalità suffiċjenti sabiex tiġi salvagwardjata proċedura ġusta, b'mod partikolari sabiex ikun żgurat li l-persuna suspettata jew l-akkużat ikunu jafu dwar il-każ kontrihom u li għandhom d-dritt li jeżerċitaw id-dritt għal difiża.

Dritt għal traduzzjoni ta' dokumenti essenzjali.

534AD. (1) Meta l-persuna suspettata jew l-akkużat ma jifhmux il-lingwa li tkun qed tintuża fil-proċeduri kriminali kkonċernati, huma għandhom, fi żmien raġonevoli, jingħataw bil-miktub traduzzjoni tad-dokumenti kollha essenzjali li jiżguraw li huma jistgħu jeżerċitaw id-dritt li jiddefendu ruħhom kif ukoll sabiex tiġi salvagwardjata proċedura ġusta.

(2) Id-deċiżjoni li tiddetermina x'jikkostitwixxi dokument essenzjali għandha tittieħed mill-Pulizija Eżekuttiva jew mill-Qorti skont ma jkun il-każ, u l-persuna suspettata jew l-akkużat jew l-avukat tagħhom għandhom jissottomettu talba raġonata għal dak il-għan:

Iżda d-dokumenti essenzjali għandhom jinkludu kull deċiżjoni li ċċaħħad il-libertà tal-persuna, kull imputazzjoni jew att ta' akkuża, u kull deċiżjoni:

Iżda wkoll ma jkunx hemm il-ħtieġa li jiġu tradotti l-passaġġi tad-dokumenti essenzjali li m'humiex rilevanti għall-finijiet li jippermettu lill-persuna suspettata jew l-akkużat ikunu jafu li hemm każ kontrihom.

(3) Xejn f'dan l-artikolu ma jiġi miftiehem bħala li jipprekludi li l-persuna suspettata jew lill-akkużat sabiex jitolbu li kull deċiżjoni li, f'kwalunkwe stadju tal-proċeduri kriminali, tgħid li m'hemmx bżonn traduzzjoni ta' dokumenti jew passaġġi tiegħu jkunu riveduti u, meta traduzzjoni tkun provduta, il-possibilità li wieħed jilmenta li l-kwalità tat-traduzzjoni mhijiex tajba sabiex tiġi salvagwardjata proċedura ġusta.

(4) Minkejja d-dispożizzjonijiet preċedenti ta' dan l-artikolu, tista' tiġi provduta traduzzjoni bil-fomm jew sommarju bil-fomm tad-dokumenti essenzjali minflok traduzzjoni bil-kitba, bil-kundizzjoni li din it-traduzzjoni bil-fomm jew sommarju bil-fomm ma jippreġudikawx il-proċedura ġusta.

(5) Meta l-persuna suspettata jew l-akkużat jirrinunzjaw għad-dritt għal traduzzjoni ta' dokumenti msemmija f'dan l-artikolu, din ir-rinunzja għandha tiġi imniżżla bil-miktub u biss wara meta, il-Pulizija Eżekuttiva jew il-Qorti, skont il-każ, tkun sodisfatta li l-persuna suspettata jew l-akkużat ikunu rċievew parir legali minn qabel jew xort'oħra kellhom għarfien sħiħ tal-konsegwenzi ta' din ir-rinunzja, u li r-rinunzja ma kenitx ekwivoka u mogħtija b'mod volontarju.

(6) It-traduzzjoni pprovduta taħt dan l-artikolu għandha tkun ta' kwalità biżżejjed li tissalvagwardja proċedura ġusta, b'mod partikolari billi tiżgura li l-persuni suspettati jew l-akkużati jkollhom għarfien tal-każ miġjub kontrihom u li jkunu jistgħu jeżerċitaw id-dritt għal difiża.

Spejjeż u kwalità tal-interpretazzjoni u tat-traduzzjoni.

534AE. (1) Minkejja d-dispożizzjonijiet tal-artikolu 533, is-servizzi ta' interpretazzjoni u tat-traduzzjoni li jirriżultaw mill-applikazzjoni tal-artikoli minn 534AB sa 534AD, it-tnejn inklużi, għandhom ikunu mingħajr ħlas.

(2) Ir-reġistratur għandu jżomm reġistru ta' tradutturi u ta' interpreti li huma kkwalifikati b'mod xieraq. Ladarba stabblilit, dan ir-reġistru għandu, fejn xieraq, jkun disponibbli għall-avukat u awtoritajiet oħra relevanti.

Dritt għal aċċess għall-materjal tal-każ.

534AF. Meta persuna waqt kull stadju ta' proċeduri kriminali tiġi arrestata jew detenuta, kull dokument li jinsab fil-pussess tal-Pulizija, li hu relatat mal-każ speċifiku u li hu essenzjali sabiex issir rikuża effettiva tal-legalità tal-arrest jew tad-detenzjoni, għandu jkun disponibbli lill-persuna arrestata jew lill-avukat tagħha.

(2) Il-persuna suspettata jew l-akkużat għandu jkollhom aċċess, mingħajr ħlas, għall-evidenza materjali kollha li tinsab fil-pussess tal-Pulizija, kemm jekk hija kontra jew favur l-imsemmijin persuna suspettata jew akkużat, jew lill-avukat tagħhom sabiex tiġi salvagwardjata proċedura ġusta u sabiex jipprepara għad-difiża tagħhom.

(3) Mingħajr preġudizzju għas-subartikolu (1), l-aċċess għal materjal imsemmi fis-subartikolu (2) għandhu jingħata fi żmien xieraq sabiex ikun hemm eżerċizzju effettiv tad-dritt għal difiża u tal-inqas għandu jingħata mas-sottomissjoni tal-merti tal-kawża. Fejn aktar evidenza materjali tiġi fil-pussess tal-Pulizija, għandu jingħata aċċess fi żmien xieraq sabiex tkun tista' tiġi kkunsidrata mill-persuna suspettata jew mill-akkużat jew l-avukat tagħhom.

(4) Minkejja d-dispożizzjonijiet tas-subartikoli (2) u (3) u sakemm dan ma jippreġudikax id-dritt ta' proċess kriminali ġust, wara li tinstema' l-prosekuzzjoni, qorti jew maġistrat jistgħu jirrifjutaw aċċess għal ċertu materjal jekk dan l-aċċess ikun ta' theddida serja għal ħajja jew għad-drittijiet fundamentali ta' persuna oħra jew jekk dan ir-rifjut huwa neċessarju sabiex jissalvagwardja l-interess pubbliku importanti jew fejn jista' jippreġudika l-investigazzjoni li tkun għaddejja jew is-sigurtà nazzjonali.

Records. 534AG. Meta persuna suspettata jew akkużata f’kwalunkwe proċeduri kriminali ġiet assistita minn interpretu jew meta ġiet provduta b’traduzzjoni bil-fomm jew sommarju bil-fomm ta’ dokumenti essenzjali kif provdut skont il-liġi, jew meta l-imsemmija persuna suspettata jew akkużata ma teżerċitax id-dritt għat-traduzzjoni ta’ dokumenti essenzjali kif provdut fl-artikolu 534AD(5), għandu jitniżżel *record* ta’ dan il-fatt fl-atti tal-proċeduri relevanti kriminali.".

24. Fil-paragrafu (ċ) tal-artikolu 636 tal-Kodiċi, minflok il-kliem "tal-kawża." għandhom jidħlu l-kliem "tal-kawża; jew" u minnufih wara dan għandu jiżdied dan il-paragrafu ġdid li ġej: Emenda tal-artikolu 636 tal-Kodiċi.

"(d) li, f’kaz ta’ xhud li jkollu l-jedd li jibbenefika taħt il-programm ta’ ħarsien ta’ xhieda mwaqqaf skont it-Titolu IV tat-Taqsima III tal-Att dwar il-Pulizija, ix-xhud kien imputat tal-istess reat li fuqu tkun meħtieġa x-xiehda tiegħu jew li hu soġġett li jkun imħarrek fil-futur fir-rigward tal-imsemmi reat jew ta’ xi reat relatat.".

25. Minnufih wara s-subartikolu (5A) tal-artikolu 649 tal-Kodiċi, għandu jiżdied dan is-subartikolu ġdid li ġej: Emenda tal-artikolu 649 tal-Kodiċi.

"(5B) Il-proċedimenti msemmija f’dan l-artikolu għandhom, kemm jista’ jkun, ikunu mmexxija daqs li kieku kienu inkjesta relatata ma’ "*in genere*".

26. Minnufih wara l-iSkeda D li tinsab mal-Kodiċi għandha tiżdied din l-iSkeda ġdida li ġejja: Żjieda ta’ Skeda ġdida mal-Kodiċi.

"SKEDA E

[Artikolu 534AB]

TAQSIMA I

Ittra Bi Drittijiet

Inti għandek id-drittijiet li ġejjin meta tiġi arrestat jew detenut:

A. ASSISTENZA MINN AVUKAT/DRITT GĦAL GĦAJNUNA LEGALI

Int għandek id-dritt li titkellem ma’ avukat jew prokuratur legali, wiċċ imb’wiċċ jew bit-telefon, b’mod kunfidenzjali, għal mhux iktar minn siegħa żmien qabel ma tiġi interrogat.

Uffiċjal tal-Pulizija fil-grad ta' Supretendent jew aktar jista' jawtorizza d-dewmien fit-twettiq ta' dan id-dritt tiegħek:

Iżda dan il-perjodu ma jistax jeċeddi aktar minn 36 siegħa. Il-pulizija tista' minnufih tgħaddi biex tinterrogak waqt dan il-perjodu, iżda inti xorta għandek id-dritt li tagħżel li tibqa sieket.

Itlob lill-pulizija jekk teħtieġ għajnuna biex titkellem ma' avukat jew prokuratur legali. Il-pulizija għandhom jgħinuk.

Iżda l-pulizija ma jistgħux jindikawlek isem l-avukat jew il-prokuratur legali li għandek tqabbad waqt id-detenzjoni tiegħek.

F'ċerti każijiet, l-għajnuna tista' tkun bla ħlas. Staqsi lill-pulizija għal iktar informazzjoni.

B. INFORMAZZJONI DWAR L-AKKUŻA

Jekk tiġi arrestat, il-pulizija huma fid-dover li jinformawk li fil-fatt int taħt arrest, ukoll jekk l-arrest jista' jidher li hu evidenti. Inti għandek id-dritt li tkun mgħarraf, fil-ħin tal-arrest tiegħek jew tad-detenzjoni tiegħek, bil-lingwa li int tifhem, bir-raġunijiet tal-arrest jew tad-detenzjoni tiegħek.

Jekk ġejt arrestat b'mandat maħruġ minn Maġistrat, inti għandek dritt għall-kopja ta' dan il-mandat li għandu jkun iffirmat mill-Maġistrat li jkun ħareġ il-mandat fil-konfront tiegħek.

Ċ. INTERPRETAZZJONI U TRADUZZJONI

Jekk inti ma titkellimx jew ma tifhimx il-lingwa mitkellma mill-pulizija jew mill-awtoritajiet kompetenti l-oħra, inti għandek id-dritt għal interpretu, mingħajr ħlas.

L-interpretu jista' jgħinek titkellem mal-avukat tiegħek u għandu jżomm kunfidenzjali l-kontenut ta' dik il-komunikazzjoni.

Inti għandek id-dritt għal traduzzjoni ta' mill-inqas is-siltiet rilevanti tad-dokumenti essenzjali, inklużi kwalunkwe ordni minn Imħallef jew Maġistrat li tippermetti li tiġi arrestat jew li tinżamm f'kustodja, kwalunkwe imputazzjoni jew akkuża u kwalunkwe sentenza. Inti tista' f'ċerti ċirkustanzi tingħata traduzzjoni bil-fomm jew fil-qosor.

D. ID-DRITT LI TIBQA' SIEKET

Meta tiġi interrogat mill-pulizija jew mill-awtoritajiet kompetenti l-oħra, int għandek id-dritt li tibqa' sieket.

L-avukat tiegħek jista' jgħinek tiddeċiedi dwar dan.

E. AĊĊESS GĦAD-DOKUMENTI

Meta tiġi arrestat u detentut, inti għandek, jew l-avukat tiegħek għandu, d-dritt ta' aċċess għal dokumenti essenzjali neċessarji għall-kontestazzjoni tal-arrest jew d-detenzjoni.

Jekk il-każ tiegħek jitressaq il-qorti inti għandek, jew l-avukat tiegħek għandu, id-dritt ta' aċċess għall-provi materjali favur jew kontra tiegħek.

F. ID-DRITT LI TINFORMA LIL XI ĦADD IEĦOR BL-ARREST JEW BID-DETENZJONI TIEGĦEK/ID-DRITT LI TINFORMA L-KONSOLAT JEW L-AMBAXXATA TIEGĦEK

Meta tiġi arrestat jew detentut, tista', jekk trid, titlob lill-pulizija tinforma lil xi qarib jew ħabib tiegħek bid-detenzjoni tiegħek u fejn qiegħed tinżamm.

F'ċerti każijiet skont il-liġi, id-dritt li tinforma lil persuna oħra bid-detenzjoni tiegħek jista' jkun proviżorjament ristrett. Dan id-dewmien ma għandux ikun ta' aktar minn sitt sigħat mill-ħin meta jkun sar l-arrest.

F'tali każijiet, il-pulizija ser jinfurmawk b'dan.

Jekk inti barrani, informa lill-pulizija, jekk trid, li l-awtorità konsolari jew l-ambaxxata tiegħek tiġi informata bid-detenzjoni tiegħek.

Tista' tagħżel li tinforma wkoll lill-pulizija jekk trid tikkuntattja uffiċjal tal-awtorità konsulari jew l-ambaxxata tiegħek.

G. GĦAJNUNA MEDIKA URĠENTI

Meta tiġi arrestat jew detenut, fuq talba tiegħek, għandek titħalla tara tabib li tagħżel int, sakemm dak it-tabib ikun jista' jinsab malajr.

Informa lill-pulizija jekk inti għandek il-bżonn ta' għajnuna medika urġenti.

H. PERJODU TAĊ-ĊAĦDA TA' LIBERTÀ

Wara l-arrest tiegħek inti tista' tiċċaħħad mil-libertà tiegħek jew tiġi detenut għal perjodu massimu ta' 48 siegħa.

Itlob lill-avukat tiegħek jew lill-Maġistrat għal informazzjoni dwar il-possibilità li tikkontesta l-arrest tiegħek, li titlob għal eżami mill-ġdid tad-detenzjoni jew li titlob għal-libertà provviżorja.

TAQSIMA II

Ittra Bi Drittijiet għal persuni arrestati fuq il-bażi ta' Mandat ta' Arrest Ewopew

Inti ġejt arrestat abbażi ta' Mandat ta' Arrest Ewropew. Inti għandek id-drittijiet li ġejjin:

A. INFORMAZZJONI DWAR IL-MANDAT TA' ARREST EWROPEW

Inti għandek id-dritt li tiġi informat dwar il-kontenut tal-Mandat ta' Arrest Ewropew li abbażi tiegħu inti ġejt arrestat.

B. ASSISTENZA MINN AVUKAT

Int għandek id-dritt li tikkonsulta ma' avukat jew prokuratur legali, wiċċ imb'wiċċ jew bit-telefon, b'mod kunfidenzjali, għal mhux iktar minn siegħa żmien qabel ma tiġi interrogat.

Uffiċjal tal-Pulizija, fil-grad ta' Supretendent jew aktar, jista' jawtorizza d-dewmien fit-twettiq ta' dan id-dritt tiegħek, iżda dan il-perjodu ma jistax jeċeddi aktar minn 36 siegħa.

Il-pulizija tista' minnufih tgħaddi biex tinterrogak waqt dan il-perjodu; iżda int xorta għandek id-dritt li tagħżel li tibqa' sieket.

Itlob lill-pulizija jekk teħtieġ għajnuna biex titkellem ma' avukat jew prokuratur legali. Il-pulizija għandhom jgħinuk.

Iżda l-pulizija ma jistgħux jindikawlek isem l-avukat jew il-prokuratur legali li għandek tqabbad waqt id-detenzjoni tiegħek.

F'ċerti każijiet, l-għajnuna tista' tkun bla ħlas. Staqsi lill-pulizija għal iktar informazzjoni.

Ċ. INTERPRETAZZJONI U TRADUZZJONI

Jekk inti ma titkellimx jew ma tifhimx il-lingwa mitkellma mill-pulizija jew mill-awtoritajiet kompetenti l-oħra, inti għandek dritt għal interpretu mingħajr ħlas. L-interpretu jista' jgħinek titkellem mal-avukat tiegħek u għandu jżomm konfidenzjali l-kontenut tal-komunikazzjoni. Inti għandek id-dritt għal traduzzjoni tal-Mandat ta' Arrest Ewropew f'lingwa li tifhem. Inti tista' f'ċerti cirkustanzi

tingħata traduzzjoni bil-fomm jew fil-qosor.

D. IL-POSSIBBILTÀ TA' KUNSENS

Inti tista' tagħti l-kunsens tiegħek jew ma tagħtihx sabiex tiġi kkonsenjat lill-Istat li qed ifittxek. Il-kunsens tiegħek jgħaġġel il-proċeduri. Ġaladarba jingħata, il-kunsens mhux revokabbli. Staqsi lill-awtoritajiet jew lill-avukat tiegħek għal aktar informazzjoni.

E. SMIGĦ

Jekk inti ma tagħtix il-kunsens tiegħek sabiex tiġi kkonsenjat, inti għandek dritt tinstema' minn awtorità ġudizzjarja.".

TAQSIMA II

Emendi għall-Ordinanza dwar il-Mediċini Perikolużi

27. Din it-Taqsima temenda l-Ordinanza dwar il-Mediċini Perikolużi u għandha tinqara u tiftiehem ħaġa waħda mal-Ordinanza dwar il-Mediċini Perikolużi, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejħa "l-Ordinanza". Emenda tal-Ordinanza dwar il-Mediċini Perikolużi. Kap. 101.

28. Minnufih wara s-subartikolu (3B) tal-artikolu 22 tal-Ordinanza għandu jiżdied dan is-subartikolu ġdid li ġej: Emenda tal-artikolu 22 tal-Ordinanza.

"(3BA) It-Titolu IV tat-Taqsima III tat-Tieni Ktieb tal-Kodiċi Kriminali għandu japplika *mutatis mutandis* għal proċedimenti għal reati taħt din l-Ordinanza.".

29. Minnufih wara s-subartikolu (6) tal-artikolu 22A tal-Ordinanza għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin: Emenda tal-artikolu 22A tal-Ordinanza.

"(7) Meta l-qorti ma tipproċedix minnufih biex tagħmel ordni kif meħtieġ taħt is-subartikolu (1), il-qorti għandha minnufih tagħmel ordni temporanja ta' iffriżar li għandha l-istess effett bħal ordni li tkun saret taħt dan l-artikolu, liema ordni temporanja għandha tibqa' fis-seħħ sa dak iż-żmien li l-qorti tagħmel l-ordni meħtieġa mill-imsemmi artikolu.

(8) Meta għal xi raġuni l-qorti tiċħad it-talba li tkun saret mill-prosekuzzjoni għall-ordni taħt is-subartikolu (1), l-Avukat Ġenerali jista', fi żmien tliet ijiem ta' xogħol mid-data tad-deċiżjoni tal-qorti, jagħmel rikors fil-Qorti Kriminali biex tagħmel l-ordni meħtieġa u d-dispożizzjonijiet ta' dan l-artikolu għandhom, *mutatis mutandis*, japplikaw għall-ordni magħmula mill-Qorti Kriminali taħt dan is-subartikolu bħallikieku l-ordni saret mill-qorti taħt is-subartikolu (1). L-ordni temporanja ta'

iffriżar magħmula taħt is-subartikolu (7) għandha tibqa' fis-seħħ sakemm il-Qorti Kriminali tiddeċiedi dwar ir-rikors.

(9) L-imputat jista' fi żmien tliet ijiem ta' xogħol mid-data li tkun saret l-ordni taħt is-subartikolu (7) jagħmel rikors fil-Qorti Kriminali biex tiġi revokata l-ordni, sakemm dik l-ordni tibqa' fis-seħħ sakemm ma tiġix revokata mill-Qorti Kriminali.".

Żjieda ta' artikolu ġdid mal-Ordinanza.

30. Minnufih wara l-artikolu 22A tal-Ordinanza għandu jiżdied dan l-artikolu ġdid li ġej:

"Ir-Reġistratur jagħmel inkjesti.

22AB. (1) Meta l-qorti tagħmel xi ordni kif imsemmi fl-artikolu 22A, għandha tordna lir-Reġistratur biex jagħmel inkjesti sabiex jintraċċa u jaċċerta fejn jistgħu jkunu xi flus jew proprjetajiet oħra, dovuti lil jew li jappartjenu għal jew taħt il-kontroll tal-imputat jew l-akkużat, skont kif ikun il-każ.

(2) Kull min huwa meħtieġ mir-Reġistratur li jipprovdi informazzjoni għall-finijiet tas-subartikolu (1) għandu jikkonforma mat-talba fi żmien tletin ġurnata mid-data li fiha tkun saret tali talba.

(3) It-talba li tkun saret mir-Reġistratur u kull risposta li tkun saret wara fir-rigward ta' dan l-artikolu għandha ssir permezz tal-posta elettronika.".

Emenda tal-artikolu 24A tal-Ordinanza.

31. L-artikolu 24A tal-Ordinanza għandu jiġi emendat kif ġej:

(a) fis-subartikolu (9) tiegħu, il-kliem "li ma jkunx taħt il-grad ta' spettur" għandhom jitħassru; u

(b) fis-subartikolu (11) tiegħu, minflok il-kliem "tletin jum" kull fejn dawn jinsabu għandhom jidħlu l-kliem "ħamsa u erbgħin ġurnata".

TAQSIMA III

Emendi għall-Att dwar il-Pulizija

Emenda tal-Att dwar il-Pulizija. Kap. 164.

32. Din it-Taqsima temenda l-Att dwar il-Pulizija u għandha tinqara u tiftiehem ħaġa waħda mal-Att dwar il-Pulizija, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Żjieda ta' artikolu ġdid mal-Att prinċipali.

33. Minnufih wara l-artikolu 61 tal-Att prinċipali, għandu

jiżdied dan l-artikolu ġdid li ġej:

"Ittra bi Drittijiet. Kap. 9.

61A. Kull persuna arrestata għandha minnufih tingħata Ittra bi Drittijiet kif stabbilita fl-Iskeda E tal-Kodiċi Kriminali u l-imsemmija persuna għandha tingħata l-opportunità li taqraha u ż-żomm dik l-ittra tul il-ħin kollu li tkun detenuta. L-Ittra bi Drittijiet għandha tkun miktuba f'lingwa li l-persuna tifhem:

Iżda meta l-Ittra bi Drittijiet ma tkunx disponibbli fil-lingwa xierqa, il-persuna arrestata għandha tiġi informata bid-drittijiet tagħha b'mod verbali f'lingwa li tifhem u l-Ittra bi Drittijiet għandha, sussegwentement u mingħajr ebda dewmien, tingħatalha f'lingwa li hija tifhem.".

Emenda tal-artikolu 75 tal-Att prinċipali.

34. L-artikolu 75 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minnufih wara l-kliem "u dik il-persuna tkun imħassba dwar is-sigurezza tagħha" għandhom jiżdiedu l-kliem "jew ikun jeżisti tħassib dwar is-sigurezza ta' dik il-persuna"; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "tkun meħtieġa b'mod indispensabbli" għandhom jidħlu l-kliem "tkun meħtieġa".

Sostituzzjoni tal-artikolu 81 tal-Att prinċipali.

35. L-artikolu 81 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Proċeduri kriminali fil-konfront ta' xhud protett.

81. (1) Xhud protett li jkun ħa sehem fil-fatt li jikkostitwixxi delitt li dwaru jkun hemm oħrajn li jkun qed jitmexxa kontrihom jew li jkun se jitmexxa kontrihom, m'għandu jitmexxa xejn kontrih għal xi delitt li jkun joriġina mill-istess fatt qabel ma l-proċedimenti li jkun xhud fihom, jew li jkun ser jissejjaħ bħala xhud fihom, ma jkunux għaddew f'ġudikat:

Iżda ebda eċċezzjoni dwar il-kompetenza ta’ xhud protett ma tiġi milqugħa minħabba fil-fatt li l-imsemmi xhud kien imputat tal-istess reat li fuqu tkun meħtieġa x-xiehda tiegħu jew li hu soġġett li jkun imħarrek fil-futur fir-rigward tal-imsemmi reat jew ta’ xi reat relatat.

(2) Fi proċedimenti kriminali li jkunu nbdew kontra xhud protett għal xi delitt li jkun joriġina mill-istess fatt li dwaru ix-xhud protett ikun ta x-xhieda tiegħu, il-qorti għandha tqis b’mod xieraq il-fatt li x-xhud protett ikun ta x-xiehda kontra kull awtur jew kompliċi b’dak il-mod li jidhrilha xieraq u l-piena tal-imsemmi xhud protett tista’ tiġi mnaqqsa jew maħfura u l-qorti għandha espressament tirreferi għad-dispożizzjoni ta’ dan l-artikolu fid-deċiżjoni tagħha.

(3) F’kull proċediment ċivili mmexxija kontra xhud protett bbażat fuq il-fatt li l-imsemmi xhud kien l-awtur jew kien kompliċi fid-delitt li dwaru jkun ta x-xiehda tiegħu, il-qorti għandha, jekk issib li x-xhud protett huwa responsabbli għall-ħlas ta’ danni, żżommu responsabbli biss għal dik il-parti tad-danni li seta’ jikkawża u għandha, minkejja d-dispożizzjonijiet tal-artikoli 1049, 1050 u 1051A tal-Kodiċi Ċivili jew ta’ xi liġi oħra, ma żżommux responsabbli *in solidum* ma’ oħrajn:

Kap. 16.

Iżda l-eżenzjoni mir-responsabbiltà *in solidum* pprovduta b’dan is-subartikolu ma tapplikax fil-każ ta’ danni li jirriżultaw minn omiċidju volontarju jew minn offiża gravi fuq il-persuna.

(4) Minkejja d-dispożizzjonijiet tas-subartikolu (2), meta f’proċedimenti kriminali kif provdut fis-subartikolu (1) li jkunu tmexxew kontra x-xhud protett -

(a) il-prosekuzzjoni tiddikjara fir-*records* tal-proċedimenti li l-akkużat ta xiehda, dwar fatti li jikkostitwixxu reat kriminali soġġett għall-piena ta' priġunerija ta' aktar minn sena, li tkun assistiet lill-pulizija biex tiġi arrestata l-persuna jew jiġu arrestati l-persuni li kkommettew ir-reat kriminali msemmi; jew

(b) ix-xhud protett jipprova għas-sodisfazzjon tal-qorti li x-xiehda tiegħu tkun b'hekk għenet lill-pulizija,

il-piena għal reat bħal dan għandha tiġi mnaqqsa fir-rigward ta' priġunerija b'grad wieħed jew tnejn u fir-rigward ta' xi pieni ta' flus għandha tiġi mnaqqsa b'terz jew b'nofs:

Iżda l-qorti, meta tikkunsidra li ċ-ċirkostanzi tal-każ hekk jistħoqqilhom, wara li tkun semgħet x-xiehda kollha u wara li ssib ix-xhud protett ħati, tista' jew tnaqqas aktar il-piena jew teżenta lix-xhud protett kompletament mill-piena:

Iżda wkoll meta l-qorti tapplika l-proviso ta' hawn fuq sabiex teżenta lix-xhud protett mill-piena kompletament, għandha tagħmel rapport lill-President ta' Malta fejn jiġu mniżżla r-raġunijiet tal-azzjonijiet tagħha u għandha b'mod espress tagħmel referenza għal dan l-artikolu fir-rapport tagħha.".

TAQSIMA IV

Emendi għall-Att dwar Lotteriji u Logħob Ieħor

36. Din it-Taqsima temenda l-Att dwar Lotteriji u Logħob Ieħor u għandha tinqara u tiftiehem ħaġa waħda mal-Att dwar Lotteriji u Logħob Ieħor, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali". Emenda tal-Att dwar Lotteriji u Logħob Ieħor. Kap. 438.

37. Fl-ewwel proviso li jinsab mas-subartikolu (1) tal-artikolu 67 tal-Att prinċipali minflok il-kliem "tkun reċidiva" għandhom jidħlu l-kliem "tkun reċidiva ta' reat kontra dan l-Att". Emenda tal-artikolu 67 tal-Att prinċipali.

TAQSIMA V

Emendi għall-Att dwar il-*Probation*

Emenda tal-Att dwar il-*Probation*. Kap. 446.

38. Din it-Taqsima temenda l-Att dwar il-*Probation* u għandha tinqara u tiftiehem ħaġa waħda mal-Att dwar il-*Probation*, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 21 tal-Att prinċipali.

39. L-artikolu 21 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "il-Qorti Kriminali" għandhom jidħlu l-kliem "il-Qorti tal-Maġistrati"; u

(b) fl-ewwel proviso li jinsab mas-subartikolu (1) tiegħu, minflok il-kliem "mill-Qorti Kriminali" għandhom jidħlu l-kliem "mill-Qorti tal-Maġistrati".

TAQSIMA VIII

Dispożizzjoni Transitorja

Dispożizzjoni transitorja.

40. Id-dispożizzjonijiet tal-artikoli 24 u 35 ta' dan l-Att għandu jkollhom effett ukoll fir-rigward tal-proċedimenti kriminali kollha li jkunu għadhom quddiem kull Qorti fiż-żmien tal-bidu fis-seħħ ta' dan l-Att ukoll jekk il-proċedimenti msemmija ikunu fi stadju ta' appell.

Għanijiet u Raġunijiet

L-għanijiet u raġunijiet ta' dan l-Abbozz ta' Liġi huma biex ikun hemm proċeduri mħeffa f'każijiet ta' ammissjoni, biex jittrasponi d-Direttiva 2010/64/EU tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Ottubru 2010 dwar id-dritt għall-interpretazzjoni u traduzzjoni fi proċeduri kriminali, biex jittrasponi d-Direttiva 2011/92/EU tal-Parlament Ewropew u tal-Kunsill tat-13 ta' Diċembru 2011 fuq il-ġlieda kontra l-abbuż sesswali, l-isfruttar sesswali tat-tfal u l-pornografija tat-tfal, biex jittrasponi d-Direttiva 2012/13/EU tal-Parlament Ewropew u tal-Kunsill tat-22 ta' Mejju, 2012 fuq id-dritt ta' informazzjoni fi proċeduri kriminali, u, fil-każ tal-emendi proposti fit-Taqsima IV tal-Abbozz, għal fini li l-programm ta' ħarsien ta' xhieda taħt l-Att dwar il-Pulizija jsir iżjed effettiv.

A Bill
entitled

AN ACT further to amend various laws related to criminal matters.

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

1. The short title of this Act is the Various Laws (Criminal Matters) (Amendment) Act, 2014. Short title.

PART I

Amendments to the Criminal Code

2. (1) 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 the Criminal Code. Cap. 9.

(2) The provisions of the new article 534AF of the Code, as added by article 23 of this Act, shall come into force on such date as the Minister responsible for Justice may, by order in the Gazette, establish.

3. Article 23D of the Code shall be amended as follows: Amendment of article 23D of the Code.

(a) for sub-article (2) thereof there shall be substituted the following:

"(2) Whosoever is required by the Registrar to provide information for the purpose of sub-article (1) shall comply with the demand within thirty days from the day of receipt of the demand."; and

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

"(3) The demand made by the Registrar, and any reply thereupon in terms of this article, may be made by electronic mail.".

Amendment of article 202 of the Code.

4. Article 202 of the Code shall be amended as follows:

(a) for the words "shall be increased by one degree" there shall be substituted the words "shall be increased by one to two degrees";

(b) in paragraph (g) thereof for the words "has not completed the age of nine years" there shall be substituted the words "is a minor";

(c) in paragraph (i) thereof for the words "of a minor." there shall be substituted the words "of a minor;"; and

(d) immediately after paragraph (i) thereof, there shall be added the following new paragraphs:

"(j) the offence, or related offences, were committed repeatedly;

(k) the offence was committed against a vulnerable person within the meaning of article 208AC(2);

(l) the offence was committed with the threat of a weapon;

(m) the offence resulted in severe physical or psychological harm for the victim;

(n) the offender has been previously convicted of offences of a similar nature.".

Amendment of article 204 of the Code.

5. Article 204 of the Code shall be amended as follows:

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

(b) in the proviso to sub-article (1) thereof, for the words "two to six years" there shall be substituted the words "three to nine years".

6. Article 204A of the Code shall be amended as follows: Amendment of article 204A of the Code.

(a) in sub-article (1) thereof, for the words "two to six years" there shall be substituted the words "three to twelve years";

(b) in paragraph (a) of sub-article (1) thereof, for the words "violence compels" there shall be substituted the words "violence, threats, coercion or force compels"; and

(c) in paragraph (c) of sub-article (2) thereof, for the words "meaning of article 83A(1)." there shall be substituted the words "meaning of article 83A(1);" and immediately thereafter there shall be added the following new paragraph:

"(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age.".

7. Article 204B of the Code shall be amended as follows: Amendment of article 204B of the Code.

(a) for sub-article (1) thereof, there shall be substituted the following:

"(1) Whosoever in order to gratify the lust of any other person engages, recruits or causes a person under age to practice prostitution, or to participate in pornographic performances, or profits from or otherwise exploits a person under age for such purposes, shall, on conviction, be liable to imprisonment for a term from two to nine years, with or without solitary confinement.";

(b) in sub-article (2) thereof, for the words "two to six years" there shall be substituted the words "three to twelve years"; and

(c) in paragraph (c) of sub-article (2) thereof, for the words "meaning of article 83A(1)." there shall be substituted the words "meaning of article 83A(1); and immediately thereafter there shall be added the following new paragraph:

"(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age.".

8. Article 204C of the Code shall be amended as follows: Amendment of article 204C of the Code.

(a) in sub-article (1) thereof, for the words "exceeding

two years" there shall be substituted the words "exceeding five years";

(b) sub-article (2) thereof, shall be amended as follows:

(i) for the words "two to six years" there shall be substituted the words "four to twelve years";

(ii) in paragraph (a) thereof for the words "with violence" there shall be substituted the words "with violence, coercion, force or threats";

(iii) in paragraph (c) thereof the words "and any of the circumstances mentioned in paragraph (d) occurs" shall be deleted; and

(iv) in paragraph (d) thereof the words "and (c)" shall be deleted.".

Amendment of article 204D of the Code.

9. Article 204D of the Code shall be amended as follows:

(a) for the words "eighteen months to five years" there shall be substituted the words "three to ten years";

(b) in paragraph (a) thereof for the words "compels a person" there shall be substituted the words "compels, coerces, forces or threatens a person";

(c) article 204D shall be renumbered as article 204D(1); and

(d) immediately after article 204D(1), as renumbered, there shall be added the following new sub-article:

"(2) The punishment for the offence in sub-article (1) shall be increased by one degree, with or without solitary confinement, in each of the following cases:

(a) when the offender wilfully or recklessly endangered the life of the person under age;

(b) when the offence involves violence or grievous bodily harm on such person;

(c) when the offence is committed with the involvement of a criminal organisation within the meaning of article 83A(1);

(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age.".

Amendment of article 205 of the Code.

10. Article 205 of the Code shall be amended as follows:

(a) for the words "for a term not exceeding two years, with or without solitary confinement" there shall be substituted the words "for a term not exceeding five years, with or without solitary confinement"; and

(b) in the proviso thereof, for the words "imprisonment for a term from one to four years" there shall be substituted the words "imprisonment for a term of two to seven years.".

Amendment of article 208A of the Code.

11. In sub-article (1) of article 208A of the Code, immediately after the word "sells," there shall be added the words "supplies,".

Amendment of article 208AA of the Code.

12. Article 208AA of the Code shall be amended as follows:

(a) article 208AA thereof shall be renumbered as article 208AA(1);

(b) in article 208AA(1) thereof, as renumbered, for the words "shall, where the proposal is followed by material acts leading to such a meeting, be liable on conviction to imprisonment for a term from twelve months to four years" there shall be substituted the words "shall, where the proposal is followed by material acts leading to such a meeting, be liable on conviction to imprisonment for a term from two to five years"; and

(c) immediately after article 208AA(1) thereof, as renumbered, there shall be added the following new sub-article:

"(2) The punishment for the offence in sub-article (1) shall be increased by one degree, with or without solitary confinement, in each of the following cases:

(a) when the offender wilfully or recklessly endangered the life of the person under age;

(b) when the offence involves violence or grievous bodily harm on such person;

(c) when the offence is committed with the involvement of a criminal organisation within the

meaning of article 83A(1);

(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age.".

Amendment of article 208AB of the Code.

13. Article 208AB of the Code shall be amended as follows:

(a) article 208AB thereof shall be renumbered as article 208AB(1);

(b) in article 208AB(1) thereof, as renumbered, for the words "shall, on conviction, be liable to imprisonment for a term from twelve months to two years" there shall be substituted the words "shall, on conviction, be liable to imprisonment for a term from two to five years"; and

(c) immediately after article 208AB(1) thereof, as renumbered, there shall be added the following new sub-article:

"(2) The punishment for the offence in sub-article (1) shall be increased by one degree, with or without solitary confinement, in each of the following cases:

(a) when the offender wilfully or recklessly endangered the life of the person under age;

(b) when the offence involves violence or grievous bodily harm on such person;

(c) when the offence is committed with the involvement of a criminal organisation within the meaning of article 83A(1);

(d) when the offender abuses of a recognised position of trust, authority or influence over the person under age.".

Amendment of article 208AC of the Code.

14. Sub-article (1) of article 208AC of the Code shall be amended as follows:

(a) for the words "208A(1) and 208(1A)," there shall be substituted the words "208A(1) to 208AB, both inclusive,";

(b) in paragraph (a) thereof, immediately after the words "where the offence" there shall be added the words "involved the use of violence or"; and

(c) in paragraph (f) thereof, for the words "this sub-title." there shall be substituted the words "this sub-title;" and immediately thereafter there shall be added the following new paragraphs:

"(g) where the offence is committed by a member of the child's family, a person cohabiting with the child or a person who has abused a recognised position of trust or authority;

(h) where the offence was committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841JHA of 24 October 2008 on the fight against organised crime;

(i) where the offender has deliberately or recklessly endangered the life of a child:

Provided that where an aggravation of punishment in respect of the circumstances mentioned in this article is already provided for under this Code or any other law, the higher punishment shall be applied.".

15. In sub-article (1) of article 208B, immediately after the words "208A(1), (1A)," there shall be added the words "(1B),". Amendment of article 208B of the Code.

16. Immediately after article 208B of the Code there shall be added the following new article: Addition of new article to the Code.

"Aiding and abetting.

208C. Whosoever aids, abets or instigates any offence under articles 204, 204A to 204D, both inclusive, and articles 208A to 208AB, both inclusive, shall be guilty of an offence and shall be liable on conviction to the punishment laid down for the offence aided, abetted or instigated.".

17. Immediately after article 209 of the Code there shall be added the following new article: Addition of new article to the Code.

"Non-applicability of article 21

209A. The provisions of article 21 shall not apply in the case where a person is found guilty of an offence under this subtitle.

18. For sub-article (6) of article 370 of the Code there shall be substituted the following: Amendment of article 370 of the Code.

"(6) The provisions of article 392A shall also apply, *mutatis mutandis*, to offences which fall within the competence

of the Court of Magistrates as a court of criminal judicature in accordance with the provisions of this article.".

Amendment of article 392A of the Code.

19. Article 392A of the Code shall be amended as follows:

(a) in sub-article (1) thereof, immediately after the words "in answer to the question in article 392(1)(b)" there shall be added the words "or in any stage of the proceedings"; and for the words "the provisions of article 453(1) shall, *mutatis mutandis*, apply subject to the following provisions of this article." there shall be substituted the words "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.";

(b) in sub-article (2) thereof, immediately after the words "of the offence charged" there shall be added the words ", such reply shall be registered, and";

(c) in sub-article (3) thereof, for the words "notwithstanding the confession of the accused, order that the inquiry be proceeded" there shall be substituted the words "notwithstanding the confession of the accused, order that the proceedings be continued";

(d) for sub-article (5) thereof, there shall be substituted the following:

"(5) At any stage of the proceedings, the accused and the Attorney General may agree and may request the court by means of an application, so that in the case where the accused pleads guilty, the Court of Magistrates as a court of criminal judicature, shall apply such sanction or measure or, where it is so provided by law, a combination of sanctions and measures, of the type and quantity agreed upon between them, and in respect of which the accused may be sentenced when he is found guilty for the offence or the offences with which he has been charged."; and

(e) immediately after sub-article (5) thereof, as substituted, there shall be added the following new sub-articles:

"(6) If the court is satisfied that the sanction or the measure, or the combination of sanctions or measures requested, as provided for in the preceding sub-article, are such that it shall be lawful for it to impose upon finding the accused guilty of the offence for which the accused has pleaded guilty, and the court feels that it should not order

that the case continues in accordance with the provisions of sub-article (3) or for any other reason that it should dismiss the request, and after having clearly explained to the accused the consequences of his request, the court shall, where an admission of guilt is made by the accused, proceed to award the sentence indicated to it by the parties wherein it shall be declared in its decision that the sentence which is being awarded is being so awarded on the request of the parties.

(7) The provisions of article 453A(3) to (5), both sub-articles inclusive, shall, *mutatis mutandis*, apply to the proceedings under this article.".

20. Immediately after article 392A of the Code there shall be added the following new article:

"Admission of guilt.

392B. (1) If the accused, in answer to the question in article 392(1)(b) or 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, after recording the admission of guilt:

(a) order the record of the inquiry, together with all the exhibits in the case, to be, within three working days, transmitted to the Attorney General; 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 for the filing of the indictment, to run from the day of the receipt of the record referred to in the last preceding article. The said term shall, on the demand of the Attorney General, be extended by the court to an additional period of fifteen days, and, on the expiration of this other period, by the President of Malta to a further additional period of fifteen days, and, where the matter is such that the determination of the true nature of the offence necessarily depends upon the lapse of a longer period of time, to such longer period:

Provided that the Attorney General shall have the right, instead of filing the bill of indictment, in accordance with this subarticle, 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 and, in this case, such option by the Attorney General 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) Notwithstanding the provisions of the proviso to subarticle (2) where the Attorney General opts to file a bill of indictment in accordance with the provisions of subarticle (2), the provisions of Title V of Part II of Book Second shall, *mutatis mutandis*, apply to an indictment filed following an admission of guilt made under this article.

(4) 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 subarticle (1), the Criminal Court shall, within two months from the date of notification, appoint the date of hearing.".

Amendment of article 500 of the Code.

21. Immediately after sub-article (2) of article 500 of the Code, there shall be added the following new sub-articles:

"(3) On any appeal against an acquittal, whether in respect of the whole or part of the indictment, the Court of Criminal Appeal shall allow an appeal by the Attorney General if it thinks that -

(a) the accused has, on the basis of the evidence produced in the trial, been wrongly acquitted;

(b) there has been an irregularity during the proceedings, or a wrong interpretation or application of the law, which could have had a bearing on the verdict:

Provided that the court may, notwithstanding that it

is of opinion that the point raised in the appeal under paragraph (b) might be decided in favour of the Attorney General, dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

(4) The Court of Criminal Appeal shall, upon an appeal made in terms of sub-article (3), affirm, vary or reverse the verdict from which an appeal has been filed.".

22. Immediately after article 526 of the Code there shall be added the following new article: Addition of new article to the Code.

"Procedural documents.

526A. Pursuant to and in accordance with 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, procedural documents or any act of the proceeding may be sent directly by post to a person who is in the territory of the foreign country in a language which that person understands:

Provided that procedural documents shall be accompanied by a report indicating to the said person the remedies available and that information about his rights and obligations concerning the document may be obtained from the issuing authority or from another competent authority in Malta.".

23. Immediately after article 534 of the Code there shall be added the following new Title and articles: Addition of new Title and articles to the Code.

"Title VI

Of the Rights of Suspects and Accused

Rights of suspect and accused.

534A. The provisions of this Title shall apply to a person from the time that he is made aware by the Executive Police that he is suspected of having committed an offence (hereinafter in this title referred to as the "suspect") and to a person charged or accused of having committed an offence (hereinafter in this title referred to as the "accused") until the conclusion of the criminal proceedings, including, where applicable, the passing of sentence and the determination of an appeal:

Provided that "criminal proceedings" shall include investigations by the Executive Police and extradition proceedings.

Right to information and Letter of Rights.

534AB. (1) Saving the provisions of articles 355AC, 355AS, 392 and 445, it shall be the duty of the Police or of the Court, as the case may be, to inform the suspect or the accused without undue delay of the following procedural rights:

(a) the right of access to a lawyer;

(b) any entitlement to free legal advice and the conditions for obtaining such advice;

(c) the right to be informed, in such detail as is necessary to safeguard the fairness of the proceedings and the effective exercise of his rights of defence, of the offence he is suspected or accused of having committed:

Provided that the suspect or accused shall be promptly informed of any changes in the information given in accordance with this article where this is necessary to safeguard the fairness of the proceedings;

(d) the right to interpretation and translation;

(e) the right to remain silent.

(2) The information provided for under sub-article (1) shall be given orally or in writing, in simple and accessible language, taking into account any particular needs of vulnerable suspected or accused persons within the meaning of 208AC(2).

(3) It shall be the duty of the Police to provide a person arrested or detained promptly with the Letter of Rights set out in Schedule E and the Police shall give the said person an opportunity to read it and to retain same in his possession throughout the time that he is detained. The Letter of Rights shall be written in a language that the person understands:

Provided that where the Letter of Rights is not available in the appropriate language, the suspect or the accused shall be informed of his rights orally in a language that he understands and the Letter of Rights shall subsequently, and without undue delay, be provided to him in a language that he understands.

(4) Information provided in accordance with this article shall be recorded by the Police or by the Court, as the case may be.

Right to interpretation.

534AC. (1) Saving the provisions of articles 355AC, 451 and 516(2) where the suspect does not speak or understand the language of the criminal proceedings, as the case may be, he shall be provided, without unreasonable delay, with interpretation in the course of the said proceedings, including during police questioning.

(2) Interpretation shall be made available for communications between the suspect or the accused and their legal counsel in direct connection with any questioning or hearing during the proceedings or with the lodging of an appeal or other procedural applications.

(3) The right to interpretation under sub-articles (1) and (2) shall apply to persons suffering from hearing or speech impediments.

(4) It shall be the duty of the Executive Police and of the Court, as the case may be, to ascertain whether the suspect or the accused speak and understand the language of the criminal proceedings and whether they need the assistance of an interpreter.

(5) Nothing in this article shall be construed as precluding the suspect or the accused to demand that any decision finding, at any stage of the criminal proceedings, that there is no need for interpretation be reviewed and, when interpretation has been provided, the possibility to complain that the quality of the interpretation is not sufficient to safeguard the fairness of the proceedings.

(6) Interpretation provided under this article shall be of a quality sufficient to safeguard the fairness of the proceedings, in particular by ensuring that the suspect or the accused has knowledge of the case against him and is able to exercise his right of defence.

Right to translation of essential documents.

534AD. (1) Where the suspect or the accused does not understand the language of the criminal proceedings concerned, he shall, within a reasonable period of time, be provided with a written translation of all documents which are essential to ensure that he is able to exercise their right of defence and to safeguard the fairness of the proceedings.

(2) The decision determining what constitutes an essential document shall be taken by the Executive Police or by the Court, as the case may be, and the suspect or the accused or his legal counsel may submit a reasoned request to that effect:

Provided that essential documents shall include any decision depriving a person of his liberty, any charge or indictment, and any judgment:

Provided further that it shall not be required to translate passages of essential documents which are not relevant for the purposes of enabling the suspect or the accused to have knowledge of the case against him.

(3) Nothing in this article shall be construed as precluding the suspect or the accused to demand that any decision finding, at any stage of the criminal proceedings, that there is no need for the translation of documents or passages thereof be reviewed and, when a translation has been provided, the possibility to complain that the quality of the translation is not sufficient to safeguard the fairness of the proceedings.

(4) Notwithstanding the preceding provisions of this article, an oral translation or oral summary of essential documents may be provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings.

(5) Where the suspect or the accused waives the right to translation of documents referred to in this article such waiver shall be recorded in writing and only after the Executive Police or the Court, as the case may be, is satisfied that the suspect or accused has received prior legal advice or has otherwise obtained full knowledge of the consequences of such a waiver, and that the waiver was unequivocal and given voluntarily.

(6) Translation provided under this article shall be of a quality sufficient to safeguard the fairness of the proceedings, in particular by ensuring that suspected or accused persons have knowledge of the case against them and are able to exercise their right of defence.

Costs and quality of interpretation and translation.

534AE. (1) Notwithstanding the provisions of article 533, the services of interpretation and translation resulting from the application of articles 534AB to 534AD, both inclusive, shall be free of charge.

(2) The registrar shall keep a register of translators and interpreters who are appropriately qualified. Once established, such register shall, where appropriate, be made available to legal counsel and other relevant authorities.

Rights of access to the materials of the case.

534AF. Where a person is arrested and detained at any stage of the criminal proceedings, any documents in the possession of the Police which are related to the specific case and which are essential to challenge effectively the lawfulness of the arrest or detention, shall be made available to the arrested person or to his lawyer.

(2) The person suspected or accused shall have access, which shall be free of charge, to all material evidence in the possession of the Police, whether for or against the said suspect or the accused, or to his lawyers in order to safeguard the fairness of the proceedings and to prepare his defence.

(3) Without prejudice to sub-article (1), access to the material referred to in sub-article (2) shall be granted in due time to allow the effective exercise of the rights of the defence and at the latest upon submission on the merits of the accusation. Where further material evidence comes into the possession of the Police, access shall be granted to it in due time to allow for it to be considered by the suspect or the accused or by his lawyer.

(4) Notwithstanding the provisions of sub-article (2) and (3) and provided that this does not prejudice the right to a fair trial, after hearing the prosecution, a court nor magistrate may refuse access to certain materials if such access may lead to a serious threat to the life or the fundamental rights of another person or if such refusal is strictly necessary to safeguard an important public interest or where it could prejudice an ongoing investigation or national security.

Records.

534AG. When a suspect or an accused in any criminal proceedings has been assisted by an interpreter or when an oral translation or an oral summary of essential documents has been provided in accordance with law, or when the said suspect or accused has waived the right to translation of essential documents as provided for in article 534AD(5), a record of this fact shall be made in the acts of the relevant criminal proceedings.".

Amendment of article 636 of the Code.

24. In paragraph (c) of article 636 of the Code, for the words "of the suit.", there shall be substituted the words "of the suit; or" and immediately thereafter there shall be added the following new paragraph:

"(d) that, in the case of a witness who has been admitted to benefit under a witness protection programme set up in terms of Title IV of Part III of the Police Act, the witness was either charged with the same offence in respect of which his deposition is required or that he is liable to be prosecuted in the future in respect of the said offence or of a related offence.".

Amendment of article 649 of the Code.

25. Immediately after sub-article (5A) of article 649 of the Code, there shall be added the following new sub-article:

"(5B) The proceedings referred to in this article shall, as nearly as may be, be conducted as if they were an inquiry relating to the "*in genere*".".

Addition of new Schedule to the Code.

26. Immediately after Schedule D to the Code there shall be added the following new Schedule:

"Schedule E

[Article 534AB]

PART I

Letter of Rights

You have the following rights when you are arrested or detained:

A. ASSISTANCE OF A LAWYER/ENTITLEMENT TO LEGAL AID

You have the right to speak confidentially to a lawyer or to a legal procurator, face to face or by telephone for not more that an

hour before your interrogation.

A police officer in the grade of Superintendent or higher may authorise the delay for you to exercise this right, however this period cannot exceed more than 36 hours.

The police may immediately proceed to interrogate you during this period, however you will still retain the right to remain silent.

Ask the police if you need help to get in contact with a lawyer or a legal procurator. The police will help you.

However the police will not indicate to you the name of the lawyer or of the legal procurator that you may engage during your detention.

In certain cases assistance may be free of charge. Ask the police for more information.

B. INFORMATION ABOUT THE ACCUSATION

If you are arrested, the police shall have the duty to inform you that you are in fact under arrest, even if the arrest appears evident.

You have the right to be informed, at the time of your arrest or your detention, in a language you understand, the reasons for your arrest or detention.

If you have been arrested by a warrant issued by a Magistrate, you shall have the right to a copy of that warrant which shall be signed by the Magistrate who issued the said warrant.

C. INTERPRETATION AND TRANSLATION

If you do not speak or understand the language spoken by the police or other competent authorities, you have the right to an interpreter, free of charge. The interpreter may help you to talk to your lawyer and must keep the content of that communication confidential. You have the right to translation of at least the relevant passages of the essential documents, including any order by a Judge or Magistrate allowing your arrest or keeping you in custody, any charge or indictment and any judgment. You may in some circumstances be provided with an oral translation or summary.

D. RIGHT TO REMAIN SILENT

While questioned by the police or by other competent authorities, you have the right to remain silent. Your lawyer can help

you in your decision.

E. ACCESS TO DOCUMENTS

When you are arrested and detained, you, or your lawyer, have the right to access essential documents you need to challenge the arrest or detention.

If your case goes to court, you or your lawyer have the right to access the material evidence for or against you.

F. INFORMING SOMEONE ELSE ABOUT YOUR ARREST OR DETENTION/INFORMING YOUR CONSULATE OR EMBASSY

When you are arrested or detained you may, if you want to, ask the police to inform a relative or a friend of yours of your detention.

In certain cases according to law, the right to inform another person of your detention may be temporarily restricted. Such delay may not be more than six hours from the time of arrest.

In such cases the police will inform you of this.

If you are a foreigner, inform the police if you want your consular authority or embassy to be informed of your detention.

You may choose to also inform the police if you want to contact an official of your consular authority or embassy.

G. URGENT MEDICAL ASSISTANCE

When you are arrested or detained, you shall have the right, on your request, to a doctor of your choice, as long as such doctor may be easily contacted.

Please inform the police if you are in need of urgent medical assistance.

H. PERIOD OF DEPRIVATION OF LIBERTY

After your arrest you may be deprived of liberty or detained for a maximum period of 48 hours.

Ask your lawyer or the judge for information about the possibility to challenge your arrest, to review the detention or to ask for provisional release.

PART II

Letter of Rights for persons arrested on the basis of a European Arrest Warrant

You have been arrested on the basis of an European Arrest Warrant. You have the following rights:

A. INFORMATION ABOUT THE EUROPEAN ARREST WARRANT

You have the right to be informed about the content of the European Arrest Warrant on the basis of which you have been arrested.

B. ASSISTANCE OF A LAWYER

You have the right to speak confidentially to a lawyer or to a legal procurator, face to face or by telephone for not more than an hour before your interrogation.

A police officer in the grade of Superintendent or higher may authorise the delay for you to exercise this right, however this period cannot exceed more than 36 hours.

The police may immediately proceed to interrogate you during this period, however you will still retain the right to remain silent.

Ask the police if you need help to get in contact with a lawyer or a legal procurator. The police will help you.

However the police will not indicate to you the name of the lawyer or of the legal procurator that you may engage during your detention.

In certain cases assistance may be free of charge. Ask the police for more information.

C. INTERPRETATION AND TRANSLATION

If you do not speak or understand the language spoken by the police or other competent authorities, you have the right to be assisted by an interpreter, free of charge. The interpreter may help you to talk to your lawyer and must keep the content of that communication confidential. You have the right to a translation of the European Arrest Warrant in a language you understand. You may in some circumstances be provided with an oral translation or summary.

D. POSSIBILITY TO CONSENT

You may consent or not consent to being surrendered to the State seeking you. Your consent would speed up the proceedings. This decision is irrevocable. Ask the authorities or your lawyer for more information.

E. HEARING

If you do not consent to your surrender, you have the right to be heard by a judicial authority.".

PART II

Amendments to the Dangerous Drugs Ordinance

27. 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 the Dangerous Drugs Ordinance. Cap. 101.

28. Immediately after sub-article (3B) of article 22 of the principal Ordinance there shall be added the following new sub-article:

Amendment of article 22 of the Ordinance.

"(3BA) Title IV of Part III of Book Second of the Criminal Code shall *mutatis mutandis* apply to proceedings for offences under this Ordinance.".

29. Immediately after sub-article (6) of article 22A of the Ordinance there shall be added the following new sub-articles:

Amendment of article 22A of the Ordinance.

"(7) Where the court does not proceed forthwith to make an order as required under sub-article (1), the court shall forthwith make a temporary freezing order having the same effect as an order made under this article, which temporary order shall remain in force until such time as the court makes the order required by the said article.

(8) Where for any reason whatsoever the court denies a request made by the prosecution for an order under sub-article (1), the Attorney General may, within three working days from the date of the court's decision, apply to the Criminal Court to make the required order and the provisions of this article shall apply *mutatis mutandis* to the order made by the Criminal Court under this sub-article as if were an order made by the court under sub-article (1). The temporary freezing order made under sub-article (7) shall remain in force until the Criminal Court determines the application.

(9) The person charged may within three working days from the date of the making of the order under sub-article (7) apply to the Criminal Court for the revocation of the order, provided that order shall remain in force unless revoked by the Criminal Court.".

Addition of new article to the Ordinance.

30. Immediately after article 22A of the Ordinance there shall be added the following new article:

"Registrar to conduct inquiries.

22AB. (1) Where the court makes any order as is referred to in article 22A, it shall order the Registrar to conduct inquiries to trace and ascertain the whereabouts of any moneys or other property, due or pertaining to or under the control of the person charged or accused or convicted, as the case may be.

(2) Whosoever is required by the Registrar to provide information for the purpose of sub-article (1) shall comply with the demand within thirty days from the day of receipt of the demand.

(3) The demand made by the Registrar, and any reply thereupon in terms of this article, may also be made by electronic mail.".

Amendment of article 24A of the Ordinance.

31. Article 24A of the Ordinance shall be amended as follows:

(a) in sub-article (9) thereof, the words "not below the rank of inspector" shall be deleted; and

(b) in sub-article (11) thereof, for the words "thirty days" wherever they occur, there shall be substituted the words "forty-five days".

PART III

Amendments to the Police Act

Amendment of the Police Act. Cap. 164.

32. This Part amends the Police Act and it shall be read and construed as one with the Police Act, hereinafter in this Part referred to as "the principal Act".

Addition of new article to the principal Act.

33. Immediately after article 61 of the principal Act there shall be added the following new article:

"Letter of rights.

Cap. 9.

61A. Any person who is arrested shall be promptly provided with the Letter of Rights as set out in Schedule E to the Criminal Code and the said person shall be given the opportunity to read it and to retain same in his possession throughout the time that he is detained. The Letter of Rights shall be written in a language that the person understands:

Provided that where the Letter of Rights is not available in the appropriate language, the person arrested shall be informed of his rights orally in a language that he understands and the Letter of Rights shall, subsequently and without undue delay, be provided to him in a language that he understands.".

Amendment of article 75 of the principal Act.

34. Article 75 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, immediately after the words "and that person is concerned for his safety" there shall be added the words "or there exist concerns over that person’s safety"; and

(b) in sub-article (2) thereof, for the words "evidence is indispensably required" there shall be substituted the words "evidence is required".

Substitutes article 81 of the principal Act.

35. Article 81 of the principal Act shall be substituted by the following:

"Criminal proceedings in respect of a protected witness.

81. (1) A protected witness who took part in the fact which constitutes a crime for which others are being or are to be prosecuted, shall not be prosecuted for any crime arising from the same fact before the proceedings in which he is or will be a witness shall have become *res judicata*:

Provided that no objection to the competence of a protected witness shall be admitted on the ground that the said witness was either charged with the same offence in respect of which his deposition is required or that he is liable to be prosecuted in the future in respect of the said offence or of a related offence.

(2) In criminal proceedings instituted against a protected witness for any crime arising from the same fact on which the protected witness would have given evidence, the court shall take into due account the fact that the protected witness gave evidence against any principal or accomplice in such manner as it deems appropriate and the punishment of such protected witness may be mitigated or remitted and the court shall expressly refer to the provisions of this article in its judgement.

(3) In any civil proceedings instituted against a protected witness based on the fact that the said witness was the perpetrator or was an accomplice in the crime on which he tendered evidence, the court shall, if it finds that the protected witness is responsible for the payment of damages, only hold him liable for such part of the damage as he may have caused and shall, notwithstanding the provisions of articles 1049, 1050 and 1051A of the Civil Code or of any other law, hold him not liable jointly and severally with others:

Cap. 16.

Provided that the exemption from joint and several liability provided for in this sub-article shall not apply in the case of damages resulting from wilful homicide or from grievous bodily harm.

(4) Notwithstanding the provisions of sub-article (2), where in criminal proceedings as provided for in sub-article (1) instituted against a protected witness -

(a) the prosecution declares in the records of the proceedings that the accused has tendered evidence on facts constituting a criminal offence liable to a punishment of imprisonment of more than one year which has helped the police to apprehend the person or persons who committed the said criminal offence; or

(b) the protected witness proves to the satisfaction of the court that his evidence has so helped the police,

the punishment for such crime shall be diminished as regards imprisonment by one or two degrees and as regards any pecuniary penalty by one-third or one-half:

Provided that the court may, if it considers that the circumstances of the case so merit, after hearing all the evidence and after convicting the protected witness, either further reduce the punishment or exempt the protected witness from punishment completely:

Provided further that, when it applies the above proviso to exempt the protected witness from punishment completely, the court shall make a report to the President of Malta stating the reasons for its action and shall expressly refer to the provisions of this article in its report.".

PART IV

Amendments to the Lotteries and Other Games Act

36. 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 principal Act".

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

37. In the first proviso to sub-article (1) of article 67 of the principal Act for the words "is a recidivist" there shall be substituted the words "is a recidivist of an offence against this Act".

Amendment of article 67 of the principal Act.

PART V

Amendments to the Probation Act

Amendment of the Probation Act. Cap. 446.

38. This Part amends the Probation Act and it shall be read and construed as one with the Probation Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 21 of the principal Act.

39. Article 21 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "Criminal Court "there shall be substituted the words "Court of Magistrates"; and

(b) in the first proviso to sub-article (1) thereof, for the words "Criminal Court "there shall be substituted the words "Court of Magistrates".

PART VIII

Transitory Provision

Transitory provision.

40. The provisions of articles 24 and 35 of this Act shall also have effect in respect of all criminal proceedings pending before any Court at the time of the coming into force of this Act even if the said proceedings are at appeal stage.

Objects and Reasons

The objects and reasons of this Bill are to provide for swifter procedures in cases of admissions of guilt, to transpose Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, to transpose Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, to transpose Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, and, in the case of the amendments proposed in Part IV of the Bill, for the purpose of rendering the witness protection programme provided under the Police Act more effective.