

Nru. 188

26. 1. 2021

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Chris Fearne, M.P., Deputat Prim Ministru u Ministru għas-Saħħa, f'isem il-Ministru għall-Ġustizzja, l-Ugwaljanza u l-Governanza, u moqri għall-Ewwel darba fis-Seduta tal-25 ta' Jannar 2021.

A BILL introduced by the Honourable Chris Fearne, M.P., Deputy Prime Minister and Minister for Health, on behalf of the Minister for Justice, Equality and Governance, and read the First time at the Sitting of the 25th January 2021.

ATT sabiex ikompli jemenda l-Kodiċi Kriminali, Kap. 9.

AN ACT to further amend the Criminal Code, Cap. 9.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT sabiex ikompli jemenda l-Kodiċi Kriminali, Kap. 9.

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-2021 li jemenda l-Kodiċi Kriminali (Emenda Nru 2) u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem imsejjaħ "il-Kodiċi". Titolu fil-qosor.
Kap. 9.

2. Fit-Tieni Ktieb Taqsima II tat-Taqsim tal-Kodiċi, minnufih wara l-kliem "Titolu VIII Dwar Assistenza Reċiproka f'Materja Kriminali 628A – 628B" għandhom jiżdiedu l-kliem "Titolu IX Dwar Kooperazzjoni bejn l-Awtoritajiet Nazzjonali u l-Uffiċċju tal-Prosekutur Pubbliku Ewropew 628Ċ – 628G". Emenda tat-Taqsim tal-Kodiċi.

3. Minnufih wara t-Titolu VIII tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi għandu jiżdied it-Titolu ġdid li ġej: Żieda ta' Titolu ġdid mal-Kodiċi.

"Titolu IX

Dwar Kooperazzjoni bejn l-Awtoritajiet Nazzjonali u l-Uffiċċju tal-Prosekutur Pubbliku Ewropew

Għan u applikabbiltà.

628Ċ. (1) Il-miżuri f'dan it-Titolu jimplimentaw id-dispożizzjonijiet tar-Regolament tal-Kunsill (UE) 2017/1939 tat-12 ta' Ottubru 2017 li jimplimenta kooperazzjoni msaħħa dwar l-istabbiliment tal-Uffiċċju tal-Prosekutur Ewropew ("l-UPPE").

(2) Dan it-Titolu jistabbilixxi regoli dwar il-kooperazzjoni bejn l-awtoritajiet nazzjonali u l-Uffiċċju tal-Prosekutur Pubbliku Ewropew fit-twettiq tal-funzjonijiet tal-Uffiċċju tal-Prosekutur Pubbliku Ewropew fit-territorju ta' Malta rigward reati kriminali fil-ġuriżdizzjoni tal-Uffiċċju tal-Prosekutur Pubbliku Ewropew.

Twettiq ta' funzjonijiet prosekutorji minn Prosekuturi Delegati Ewropej.

628D. (1) Il-Prosekuturi Delegati Ewropej għandhom, kull meta jwettqu s-setgħat li jinvestigaw reati skont ir-Regolament tal-Kunsill (UE) 2017/1939, jaġhtu istruzzjoni lill-Pulizija jew lil kwalunkwe aġenzija oħra tal-infurzar tal-liġi sabiex twettaq investigazzjoni relatata ma' reati li jaqgħu fil-kompetenza tal-Uffiċċju tal-Prosekutur Pubbliku Ewropew.

(2) Il-Prosekuturi Delegati Ewropej għandhom, meta jkunu qegħdin jipprosekwixxu reati, ikollhom l-istess setgħat bħall-Avukat Ġenerali u l-Pulizija Eżekuttiva.

(3) Il-Prosekuturi Delegati Ewropej għandhom jipprosekwixxu f'isem ir-Repubblika ta' Malta.

Miżuri ta' investigazzjoni tal-Prosekuturi Delegati Ewropej.

628E. Il-Prosekuturi Delegati Ewropej jistgħu jordnaw il-miżuri ta' investigazzjoni li ġejjin:

(a) jitolbu l-assistenza tal-Pulizija biex ifittxu fi kwalunkwe bini, art, mezz tat-trasport, dar privata, hwejjeġ u kwalunkwe proprjetà personali oħra jew sistema tal-kompjuter, u jieħdu kwalunkwe miżura meħtieġa biex jippreżervaw l-integrità tagħhom jew biex jevitaw it-telf jew il-kontaminazzjoni tal-evidenza;

(b) jitolbu l-assistenza tal-Pulizija biex jiksibu l-produzzjoni ta' kwalunkwe oġġett jew dokument rilevanti jew fil-forma oriġinali tiegħu jew f'xi forma speċifikata oħra;

(ċ) jitolbu l-assistenza tal-Pulizija biex jiksibu l-produzzjoni ta' data maħżuna f'kompjuter, kriptata jew decriptata, fil-forma oriġinali tagħha jew inkella f'xi forma speċifikata oħra, inklużi data dwar kontijiet bankarji u data dwar it-traffiku f'konformità mal-Att dwar il-Protezzjoni u l-Privatezza tad-Data;

(d) jitolbu lill-qorti biex toħroġ ordnijiet ta' sorveljanza, ordnijiet ta' investigazzjoni, ordnijiet ta' sekwestru u ordnijiet ta' ffrizar fejn ikun hemm raġuni biex wiehed jemmen li s-sid, il-pussessur jew il-kontrollur ta' dawk il-mezzi strumentali jew rikavat ser ifittex li jxejjen is-sentenza li tordna l-konfiska;

(e) jitolbu lill-awtorità kompetenti biex tintercetta komunikazzjonijiet elettronici lejn u mill-persuna suspettata jew akkużata, fuq kwalunkwe mezz ta' komunikazzjoni elektroniku li tkun qiegħda tuża l-persuna suspettata jew akkużata relattiva mar-reati stabbiliti fl-artikoli 190Ċ, 190E u 190G; u

(f) jitolbu lill-Pulizija biex titraċċa u tirrintraċċa oġġett b'mezzi tekniċi, inkluż it-twettiq ta' kunsinni kkontrollati relattivi mar-reati stabbiliti fl-artikoli 190Ċ, 190E u 190G.

Arrest preventiv jew detenzjoni tas-suspettat.

628F. Il-Prosekutur Delegat Ewropew jista' jitlob lill-Pulizija biex tarresta jew iżżomm taħt arrest preventiv is-suspettat jew il-persuna akkużata.

Poteri tal-Prosekutur Ewropew.

628G. Is-setgħat imsemmija fl-artikoli 628D, 628E and 628F jistgħu jitwettqu mill-Prosekutur Ewropew f'każijiet eċċezzjonali kif msemmi fl-Artikolu 28(4) tar-Regolament tal-Kunsill (UE) 2017/1939.

Awtorità nazzjonali kompetenti.

628H. Il-Pulizija għandha taġixxi bħala awtorità kompetenti biex:

(a) tirċievi l-informazzjoni skont l-Artikolu 24(8) tar-Regolament tal-Kunsill (UE) 2017/1939;

(b) tiġi kkonsultata skont l-Artikolu 25(2) u tar-Regolament tal-Kunsill (UE) 2017.1939; u

(ċ) tagħti kunsens skont l-Artikolu 25(4) tar-Regolament tal-Kunsill (UE) 2017/1939."

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jipprovdu d-dispożizzjonijiet ta' implimentazzjoni meħtieġa għar-Regolament tal-Kunsill (UE) 2017/1939 tat-12 ta' Ottubru 2017 li jimplimenta kooperazzjoni msaħħa dwar l-istabbiliment tal-Uffiċċju tal-Prosekutur Ewropew ("l-UPPE").

C 5132

BILL
entitled

AN ACT to further amend the Criminal Code, Cap. 9.

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.** The short title of this Act is the Criminal Code (Amendment No. 2) Act, 2021 and this Act shall be read and construed as one with Cap. 9. the Criminal Code, hereinafter referred to as "the Code".

Amendment to **2.** In Book Second Part II of the Arrangement of Code, Arrangement of immediately after the words "Title VIII of Mutual Assistance in Code. Criminal Matters 628A - 628B" there shall be added the words "Title IX Of Cooperation between the National Authorities and the Office of the European Public Prosecutor 628C - 628G".

Addition of new **3.** Immediately after Title VIII of Part II of Book Second of the Title to the Code. Code there shall be added the following new Title;

"Title IX
Of Cooperation between the National Authorities and
the Office of the European Public Prosecutor

Scope and 628C. (1) The measures in this Title implement applicability. the provisions of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO").

(2) This Title establishes rules concerning the cooperation between the national authorities and the European Public Prosecutor's Office in the performance of the functions of the European Public Prosecutor's Office on the territory of Malta in relation to the crimes within the jurisdiction of the European Public Prosecutor's Office.

Exercise of prosecutorial functions by European Delegated Prosecutors.

628D. (1) The European Delegated Prosecutors shall, whenever exercising the powers to investigate offences in accordance with Council Regulation (EU) 2017/1939, instruct the Police or any other law enforcement agency to conduct an investigation relative to offences falling within the competence of the European Public Prosecutor's Office.

(2) The European Delegated Prosecutors shall, when prosecuting offences, have the same powers as the Attorney General and the Executive Police.

(3) The European Delegated Prosecutors shall prosecute in the name of the Republic of Malta.

Investigation measures of the European Delegated Prosecutors.

628E. The European Delegated Prosecutors may order the following investigative measures:

(a) request the assistance of the Police to search any premises, land, means of transport, private home, clothes and any other personal property or computer system and to take measures necessary to preserve the integrity or to avoid the loss or contamination of evidence;

(b) request the assistance of the Police to obtain the production of any relevant object or document either in its original form or in some other specified form;

(c) request the assistance of the Police to obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data in compliance with the Data Protection Act;

Cap. 586.

(d) request the courts to issue of monitoring orders, investigation orders, attachment orders and freezing orders where there is reason to believe that the owner, possessor or controller of the proceeds will seek to frustrate the judgment ordering confiscation;

(e) request the competent authority to intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using relative to the offences established in articles 190C, 190E and 190G; and

(f) request the Police to track and trace an object by technical means including the conduct of a controlled delivery relative to offences established in articles 190C, 190E and 190G.

Pre-trial arrest or detention of suspect.

628F The European Delegated Prosecutor may request the Police to arrest or retain in pre-trial detention the suspect or accused person.

Powers of the European Prosecutor.

628G. The powers referred to in articles 628D, 628E and 628F may be exercised by the European Prosecutor in exceptional cases as referred to in Article 28(4) of Council Regulation (EU) 2017/1939.

Competent national authority.

628H. The Police shall act as competent national authority to:

(a) receive the information in accordance with Article 24 (8) of Council Regulation (EU) 2017/1939;

(b) be consulted in accordance with Article 25 (2) and (3) of Council Regulation (EU) 2017/ 1939; and

(c) give consent in accordance with Article 25 (4) of Council Regulation (EU) 2017/1939."

Objects and Reasons

The objects and reasons of this Bill are to provide the necessary implementing provisions for the Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO").
