

610. Il-Kap tal-Oppożizzjoni l-Onor. Bernard Grech, l-Onor. David Agius, l-Onor. Robert Cutajar jipproponu:

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

10.01.2022

ABBOZZ ta' LIGI

msejjah

Att biex jimplimenta l-konklużjonijiet u r-rakkomondazzjonijiet ewlenin tal-Bord tal-Inkjestta Pubblika dwar l-assassinju ta' Daphne Caruana Galizia bil-ghan li Malta jkollha iktar strutturi u ghodda biex tiġi miġġielda l-kriminalità organizzata, l-abbuż tal-poter u l-korruzzjoni, sabiex id-dritt fundamentali għall-gurnalizmu hieles, imparzjali u indipendenti jkun ankrat fil-Kostituzzjoni ta' Malta għall-ewwel darba, u sabiex il-gurnalisti f'Malta jkollhom protezzjoni effettiva minn kawzi strategici kontrihom miftuha fi qrati f'pajjizi terzi.

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

Arrangament tal-Att

Taqsimha I emenda għall-Kostituzzjoni ta' Malta sabiex telenka d-dmirijiet tal-Gvern fl-interess tal-gid komuni (pagna 3)

Taqsimha II emenda għall-Kostituzzjoni ta' Malta sabiex din tipprovdi għad-dmirijiet ta' Gvern interim (pagna 5)

Taqsimha III emenda għall-Kodici Kriminali li tistabbilixxi Uffiċċju ta' Magistrat Inkwirenti Speċjali kontra l-Korruzzjoni, u li jagħmel dispozizzjonijiet oħra relattivi għalih (pagna 7)

Taqsimha IV emenda għall-Kodici Kriminali biex jipprovdi għall-ħolqien tar-reat tal-intralc tal-gustizzja (pagna 16)

Taqsimha V emenda għall-Kodici Kriminali biex jipprovdi għall-ħolqien ta' reati minn uffiċjal pubbliku inkarigat bl-infurzar tal-ligi li dolozament jonqos minn dmiru (pagna 18)

Taqsimha VI emenda għall-Kodici Kriminali sabiex jipprevedi l-ħolqien ta' reati godda ta' użu illegali ta' riżorsi elettronici mhux uffiċjali minn uffiċjali pubbliċi u impjegati (pagna 20)

Taqsimha VII emenda għall-Kodici Kriminali biex jipprovdi għall-ħolqien ta' reat ġdid kontra l-kriminalita organizzata billi jipprovdi għall-assocjazzjoni kriminali ta' bixra mafjuza (pagna 22)

Taqsimha VIII emenda għall-Att dwar il-Prevenzjoni tal-Hasiul tal-Flus biex jipprovdi għal Ordni ta' Ġid mhux spjegat (pagna 24)

Taqsimha IX emenda għall-Kodici Kriminali biex jipprovdi għall-holqien ta' reat ġdid għal min jabbuza mill-awtorità tal-uffiċċju tiegħu (pagna 35)

Taqsimha X emenda għall-Kostituzzjoni ta' Malta biex jipprovdi għodda ahjar 'l Pulizija fl-investigazzjoni ta' delitti gravi (pagna 37)

Taqsimha XI emenda għall-Kostituzzjoni ta' Malta biex jipprovdi għall-ghola protezzjoni possibbli għad-dritt ta' gurnalizmu hieles, indipendenti u imparzjali bhala wiehed mill-pillastri ewlenin tas-Saltna tad-Dritt (pagna 39)

Taqsimha XII emenda għall-Att dwar il-Midja u l-Malfama u għall-Kodici ta' Organizzazzjoni u Procedura Civili biex jipprovdi għall-protezzjoni kontra kawzi strategici kontra l-partecipazzjoni pubblika ("SLAPP") (pagna 43)

1. It-Titolu qasir ta' dan l-Att huwa l-Att Titolu fil-qosor ta' dan l-Att huwa l-Att tal-2022 li jemenda diversi ligijiet biex jimplimenta l-konkluzjonijiet u r-rakkomondazzjonijiet ewlenin tal-Bord tal-Inkjesta Pubblika dwar l-assassinju ta' Daphne Caruana Galizia

TAQSIMA I

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

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

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

Artikolu 64B

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

- a) jaġixxi b'mod legali, speċjalment skont din il-Kostituzzjoni u t-trattati internazzjonali vinkolanti;
- b) jaġixxi skont il-ligi, u b'kunsiderazzjoni xierqa għad-drittijiet taċ-ċittadini;
- c) iżommu lura mill-arbitrarjetà;
- d) josserva l-proċess dovut;
- e) jaġixxi b'mod raġonevoli, inkluż billi jqis il-prattika tajba stabbilita;
- f) jipprovdi servizz effiċjenti, effettiv u reattiv;
- g) jiehu deċiżjonijiet raġonevoli b'mod oġġettiv;
- h) jonfoq fondi pubbliċi b'attenzjoni u proprjetà;
- i) jara li c-cittadin jiehu valor għat-taxxi li jhallas;
- j) jipprovdi servizz miftuħ, aċċessibbli u responsabbli;

k) jaġixxi b'mod ġust u proporzjonat, inkluż fit-trattament ta' persuni minghajr ebda diskriminazzjoni jew preġudizzju mhux xierqa u jiżguraw li ma jeżisti l-ebda kunflitt ta' interess;

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

TAQSIMA II

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

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

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

"Gvern temporanju

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

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

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

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

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

- a) jagħmel leġislazzjoni sussidjarja;
- b) jdaħħal fis-seħh leġislazzjoni;
- c) jimplimenta inizjattivi politiċi ewlenin;
- d) jagħmel ħatriet; u
- e) jidhöl għal kuntratti maġġuri matul il-perjodu ta' kustodja.

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

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

Emenda tal-Artikolu 66 tal-liġi prinċipali.

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

TAQSIMA III

6. Din it-Taqsima temenda l-Kodici Kriminali u tistabbilixxi l-Uffiċċju ta' Maġistrat Inkwirenti Speċjali kontra l-Korruzzjoni

7. Minnufih wara l-artiklu 569 tal-Kodici Kriminali, ikun hemm iz-zieda ta' dawn l-Artikli godda li gejjin:

L-interpretazzjoni

569A(1) sakemm il-kuntest ma jitlobx mod ieħor:

“prattiki korrotti” għandha t-tifsira mogħtija lilha fis-subartiklu (2) ta' dan l-artiklu;

“uffiċjal pubbliku” tfisser id-detentur ta' kwalunkwe kariga pubblika jew persuna maħtura biex taġixxi fi kwalunkwe tali kariga, u tinkludi mhux biss l-awtoritajiet kostitwiti, civili u militari, iżda wkoll il-persuni kollha li huma maħtura legalment biex jamministraw kwalunkwe parti tas-setgħa eżekuttiva tal-Gvern, jew biex iwettqu kwalunkwe servizz pubbliku ieħor impost bil-liġi, kemm jekk ġudizzjarju, amministrattiv jew imħallat, u jinkludi *persons of trust* u *positions of trust*; Membri tal-Kamra tar-Rappreżentanti; kwalunkwe persuna li hija fdata bi jew li għandha funzjonijiet relatati mal-amministrazzjoni ta' korp statutorju li għandu personalità ġuridika distinta, kwalunkwe kunsill, Bord, panel, kumitat jew korp simili ieħor stabbilit minn kwalunkwe liġi, jew li huwa impjegat ma' korp bħal dan; u jinkludi, fir-rigward ta' kwalunkwe att jew ommissjoni matul il-mandat ta' tali kariga, kwalunkwe persuna li, fi żmien perijodu ta' hames snin qabel jew fi kwalunkwe żmien wara d-dhul fis-seħħ ta' dan l-Att, kienet uffiċjal pubbliku;

“korp statutorju” tfisser kwalunkwe korporazzjoni jew korp ieħor stabbilit bil-liġi u jinkludi wkoll kwalunkwe sħubija jew korp ieħor li fih il-Gvern ta' Malta, jew kwalunkwe korp bħal dak imsemmi qabel, għandu interess ta' kontroll jew li fuqhom għandu kontroll effettiv.

Prattici korrotti

569B (2) Dawn li gejjin għandhom ikunu prattiki korrotti skont dan l-Att:

- a) l-ommissjonijiet u ghemil li jikkostitwixxu r-reati skont l-Artikoli 112 sa 118, 120 sa 121D, 124 sa 127A, u 138 tal-Kodiċi Kriminali;
- b) ir-reat ta' allegazzjoni ta' influwenza illegali skont l-artiklu 13 ta' dan l-Att;
- c) l-atti jew l-ommissjonijiet li jikkostitwixxu tentattiv biex jitwettaq kwalunkwe wiehed mir-reati msemmija hawn fuq jew li jikkostitwixxu kompliċità fi kwalunkwe wiehed minn dawk ir-reati skont l-Artikoli 41 u 42 tal-Kodiċi Kriminali.

Maġistrat Inkwirenti Speċjali

8. 569C(1) Il-President ta' Malta għandu jassenja lil wiehed mill-Maġistrati tal-Qrati Inferjuri, dmirijiet bhala Maġistrat Inkwirenti Speċjali.

(2) Il-Maġistrat Inkwirenti Speċjali għandu jkollu s-setgħat u għandu jeżerċita l-funzjonijiet stabbiliti f'dan l-Att, u waqt li jkun assenjat tali dmirijiet ma għandu jwettaq l-ebda dmir ieħor bhala Maġistrat tal-Qrati Inferjuri.

(3) Assenjazzjoni ta' dmirijiet bhala Maġistrat Inkwirenti Speċjali għandha tkun għal perijodu ta' sitt snin. Malli jintemm l-imsemmi perjodu ta' sitt snin, Maġistrat jista' jerga' jigi jassenjat dawn id-dmirijiet għal perjodi oħra ta' tliet snin kull wiehed.

(4) Il-Maġistrat Inkwirenti Speċjali ma jistax matul il-perijodu tal-inkarigu tiegħu bhala tali jitneħħa minn dawn id-dmirijiet jew jigi assenjat dmirijiet oħra. Madankollu, huwa għandu jieqaf milli jaġixxi bhala Maġistrat Inkwirenti Speċjali jekk għal kwalunkwe kawża ma jibqax Maġistrat.

(5) Fl-eżerċizzju tal-funzjonijiet tiegħu taħt dan l-Att il-Maġistrat Inkwirenti Speċjali għandu jaġixxi b'mod indipendenti u m'għandux ikun soġġett għad-direzzjoni jew il-kontroll ta' kwalunkwe persuna jew awtorità oħra, h'ief skont il-liġi prevista.

Funzjonijiet u dmirijiet ta' Maġistrat Inkwirenti Speċjali

9. 569D(1) Għandha tkun il-funzjoni tal-Maġistrat Inkwirenti Speċjali li jwettaq l-inkjesti, iwettaq l-investigazzjonijiet u jagħmel rapport dwarhom lill-Ispeaker kif previst f'dan l-Att.

(2) Azzjoni kriminali fir-rigward ta' prattiki korrotti għandha tispetta lill-Maġistrat Inkwirenti Speċjali.

(3) Jekk, f'kazijiet fejn l-eżerċizzju ta' azzjoni kriminali tispetta lill-Maġistrat Inkwirenti Speċjali, jekk huwa, fuq kwalunkwe rapport fir-rigward tat-twertiq ta' prattika korrotta, jirrifjuta li jibda proċedimenti, għandu jkun legittimu li l-persuna li tkun għamlet ir-rapport tagħmel rikors lill-Qorti Kriminali għal ordni lill-Maġistrat Inkwirenti Speċjali biex jibda proċedimenti; u jekk, wara li jinstemgħu, fejn meħtieġ, il-provi pprezentati mill-applikant u l-Maġistrat Inkwirenti Speċjali, il-Qorti tkun sodisfatta li r-rapport huwa *prima facie* ġustifikat, hija għandha tilqa' r-rikors u għandha, permezz tar-Registratur, tinnotifika lill-Maġistrat Inkwirenti Speċjali dwar l-ordni mogħtija fuqha:

Qabel ma tittiehed kwalunkwe azzjoni dwar kwalunkwe tali applikazzjoni, l-applikant għandu jikkonferma r-rapport bil-ġurament, u għandu jirrikonoxxi b'somma li għandha tiġi stabbilita mill-qorti, biex jagħti evidenza waqt il-proċess, jekk ikun meħtieġ, jew biex jipprovdi kwalunkwe evidenza bħal din għad-dispożizzjoni tiegħu li tista' twassal għall-kundanna tal-parti akkużata.

(4) Id-dispożizzjonijiet tas-subartiklu 2 tal-Artiklu 383, l-artikli 386 u 387 tal-Kodiċi Kriminali għandhom, sa fejn ikun applikabbli, japplikaw għal kwalunkwe rikonoxxenza skont is-subartiklu (3) ta' dan l-artiklu.

Uffiċċju u persunal tal-Maġistrat Inkwirenti Speċjali

10. 569E(1) Il-Ministru responsabbli għall-Ġustizzja għandu jipprovdi lill-Maġistrat Inkwirenti Speċjali b'bini xieraq għall-uffiċċju tiegħu; u għandu b'konsultazzjoni mal-Maġistrat Inkwirenti Speċjali jiddetermina l-htigiet ta' impjegati tal-uffiċċju tiegħu u għandu jassenja uffiċjali pubbliċi għall-uffiċċju tal-Maġistrat Inkwirenti Speċjali kif xieraq:

Ebda persuna ma tista' tiġi assenjata dmirijiet fl-uffiċċju tal-Maġistrat Inkwirenti Speċjali hlief bl-approvazzjoni tal-Maġistrat Inkwirenti Speċjali.

(2) Il-Maġistrat Inkwirenti Speċjali għandu jkollu s-setgħa li jitlob l-assistenza tal-Pulizija fit-twertiq ta' kwalunkwe investigazzjoni dwar prattiki korrotti allegati jew suspettati skont dan l-Att u l-Kummissarju tal-Pulizija għandu jipprovdi uffiċjali tal-pulizija biex jagħtu l-assistenza mitluba:

Id-dispożizzjonijiet tal-proviso għas-subartiklu (1) ta' dan l-artiklu għandhom *mutatis mutandis* japplikaw għal tali uffiċjal tal-pulizija; u dment ukoll li fl-għoti ta' dik l-assistenza l-Pulizija għandu jkollha u teżerċita biss dawk is-setgħat li huma awtorizzati jeżerċitaw taħt il-Kodiċi Kriminali jew kwalunkwe liġi oħra.

(3) Minkejja d-dispożizzjonijiet ta' kwalunkwe liġi, uffiċjali pubbliċi assenjati dmirijiet fl-Uffiċċju tal-Maġistrat Inkwiranti Speċjali kif previst fis-subartiklu (1) u l-uffiċjali tal-Pulizija dettaljati biex jagħtu assistenza lill-Maġistrat Inkwirenti Speċjali kif previst fis-subartiklu (2) ma għandhomx matul tali inkarigu jew waqt li jkunu dettaljati b'dan il-mod, mingħajr il-kunsens tagħhom jew dak tal-Maġistrat Inkwirenti Speċjali, jiġu trasferiti jew dettaljati għal dmirijiet oħra.

Rapporti lill-Maġistrat Inkwirenti Speċjali

11. 569F(1) Kwalunkwe persuna tista' bil-gurament tagħmel rapport lil Maġistrat Inkwirenti Speċjali fir-rigward ta' kwalunkwe Prattika korrotta li allegatament twettqet minn uffiċjal pubbliku:

B'dan pero li Maġistrat Inkwirenti Speċjali jista' jibda investigazzjonijiet fuq inizjattiva tiegħu stess.

(2) Ir-rapport imsemmi fis-subartiklu (1) ta' dan l-artiklu għandu jkun fih indikazzjoni tal-fatti kollha li fl-opinjoni tal-persuna li tagħmel ir-rapport jistgħu jkunu rilevanti għall-investigazzjoni li għandha titwettaq mill-Maġistrat Inkwirenti Speċjali.

(3) Mal-wasla ta' kwalunkwe rapport kif imsemmi fis-subtaqsimiet preċedenti ta' din it-taqsimha l-Maġistrat Inkwirenti Speċjali għandu jwettaq investigazzjoni dwar l-allegata Prattika korrotta u għal dan il-għan għandu jkollu s-setgħat kollha mogħtija lil Maġistrat tal-Qrati Inferjuri fl-artikli 546 sa 569 tal-Kodiċi Kriminali, biex isejjaħ lix-xhieda u biex jamministra l-gurament u biex jitlob l-assistenza tal-Pulizija fit-twettiq tal-investigazzjonijiet dwar Prattika korrotta allegata jew suspettata skont dan l-Att u l-Pulizija għandha tagħti l-assistenza mitluba skond kif ipprovdut fl-artiklu 5(2) ta' dan l-Att:

B'dan pero li Maġistrat Inkwirenti Speċjali għandu jisma' lix-xhieda kollha personalment u ma għandux jiddelega s-smiegħ tax-xhieda lil kwalunkwe espert jew uffiċjal tal-pulizija:

B'dan ukoll li l-inkjesti relatati ma' *in genere* u *reperti* ma jitwettqux mill-Maġistrat Inkwirenti Speċjali.

(4) Kwalunkwe persuna mħarrka mill-Maġistrat Speċjali Inkwirenti kif imsemmi qabel li tirrifjuta, jew mingħajr raġuni suffiċjenti tonqos milli tattendi fil-hin u l-post imsemmija fit-taħrika, jew tirrifjuta, mingħajr raġuni suffiċjenti, li twieġeb jew li twieġeb bis-shih u b'mod sodisfaċenti, sa fejn taf u temmen, il-mistoqsijiet kollha li jsirulha mill-Maġistrat Speċjali tal-Inkwirenti, tehel, wara kundanna, għal multa (multa) li ma taqbiżx l-elfejn euro (€2,000) jew sa tliet xhur prigunerija, jew dik il-multu u prigunerija flimkien:

Bla pregudizzju għall-generalità tad-dispożizzjoni tas-subartiklu (3) ta' dan l-artiklu, l-ebda persuna li tixhed quddiem il-Maġistrat Inkwirenti Speċjali ma tista' tiġi mgieghla twieġeb kwalunkwe mistoqsija li jkollha t-tendenza li tesponiha għal kwalunkwe prosekuzzjoni kriminali, u kull persuna bħal din għandha, fir-rigward ta' kwalunkwe evidenza mogħtija quddiem il-Maġistrat Inkwirenti Speċjali, tkun intitolata għall-istess privileġġi li xhud li jixhed quddiem qorti huwa intitolat għalihom.

(5) Meta l-Maġistrat Inkwirenti Speċjali jkun tal-fehma li l-eżami ta' kwalunkwe xhud jew kwalunkwe proċess ieħor tal-investigazzjoni minn awtorità barra minn Malta jkun meħtieġ, il-Maġistrat Inkwirenti Speċjali jista' jfassal ittra ta' talba u permezz tar-registratur jgħaddiha lill-awtorità msemmija barra minn Malta flimkien mal-interrogatorji jew deskrezzjoni tal-azzjoni li għandha titwettaq mill-awtorità barra minn Malta.

(6) Il-proċedimenti fir-rigward ta' kwalunkwe reat kontra dan l-artiklu għandhom jitmexxew fuq istanza tal-Maġistrat Inkwirenti Speċjali mill-Pulizija quddiem il-Qorti tal-Maġistrati Malta jew Ghawdex skont il-każ.

Procés-verbal

12. 569G(1) Il-Maġistrat Inkwirenti Speċjali għandu jfassal proċess verbali tal-investigazzjoni li għandu jinkludi l-konkluzjonijiet tiegħu dwarha inkluż, fejn ikun hemm, ir-reati li jistgħu jsiru kontra kwalunkwe persuna u rapport tal-prova b'appoġġ għaliha.

(2) Il-*procés-verbal* għandu jkun akkumpanjat minn traskrizzjoni tal-provi kollha miġbura mill-Maġistrat Inkwirenti Speċjali kif ukoll minn kwalunkwe dokument relatat mal-investigazzjoni mwettqa minnu.

(3) Hekk kif jiġi konkluz il-*procés-verbal*, dan għandu jiġi ffirmat mill-Maġistrat Inkwirenti Speċjali u kopja tiegħu għandha tintbagħat flimkien ma 'kopja tad-dokumenti msemmija fis-subartiklu (2) ta' dan l-artiklu lill-Ispeaker tal-Kamra tar-Rappreżentanti.

(4) Fejn il-Maġistrat Inkwirenti Speċjali jikkonkludi fil-*procés-verbal* li hemm biżżejjed evidenza biex ikun hemm prosekuzzjoni għal Prattiki Korrotti, l-Ispeaker tal-Kamra tar-Rappreżentanti għandu jgħieghel li l-kopja tal-imsemmi proċess verbali titpogġa fuq il-mejda tal-Kamra. Fejn il-Maġistrat Inkwirenti Speċjali jikkonkludi fil-*procés-verbal* li ma hemmx biżżejjed evidenza biex ikun hemm prosekuzzjoni għal Prattiki Korrotti, l-kopja msemmija għandha tibqa' sigrieta.

Prosekuzzjoni

13. 569H(1) Meta l-Maġistrat Inkwirenti Speċjali jikkonkludi fil-*procés-verbal* li hemm biżżejjed evidenza biex ikun hemm prosekuzzjoni għal prattika korrotta, huwa għandu immedjatement jfassal l-akkużi u jittrażmetti l-istess lill-Kummissarju tal-Pulizija u ordnalu biex isejjah lill-persuna akkużata quddiem il-qorti kompetenti biex twieġeb għall-akkużi msemmija jew biex tarresta l-imsemmija persuna u tippreżentaha quddiem l-imsemmija qorti taht arrest biex twieġeb għal tali akkużi.

(2) Prosekuzzjoni għal Prattiki Korrotti titmexxa mill-Maġistrat Inkwirenti Speċjali kemm fir-rigward ta' każijiet quddiem il-Qorti tal-Maġistrat sew bhala Qorti ta' Istrutturja jew bhala Qorti ta' Urisdizzjoni Kriminali kif ukoll quddiem il-Qorti Kriminali u fejn ikun hemm appell fi kwalunkwe każ bhal dan quddiem il-Qorti tal-Appell Kriminali wkoll quddiem l-imsemmija Qorti tal-Appell Kriminali.

(3) Soġġett għad-dispożizzjonijiet tas-subartiklu (4) ta' dan l-artiklu, id-dispożizzjonijiet tat-Tieni Ktieb tal-Kodiċi Kriminali għandhom japplikaw għal proċedimenti li qed jitmexxew mill-Maġistrat Inkwirenti Speċjali daqslikieku r-referenza fihom għall-Pulizija jew l-Avukat Ġenerali kienet referenza għall-Maġistrat Inkwirenti Speċjali skont kif ikun mehtieg mill-każ.

(4) L-artiklu 541 tal-Kodiċi Kriminali ma għandux japplika għall-Maġistrat Inkwirenti Speċjali, u l-artiklu 433 għandu japplika għall-Maġistrat Inkwirenti Speċjali daqslikieku r-referenza fis-subartikli (1) u (2) tiegħu għall-Avukat Ġenerali kienet referenza għall-Maġistrat Inkwirenti Speċjali li jaġixxi bil-qbil tal-Avukat Ġenerali.

(5) Fejn jiġi ppreżentat kwalunkwe rapport lill-Pulizija dwar kwalunkwe prattika korrotta, huma għandhom jittrażmettu b'mod immedjat l-istess lill-Maġistrat Inkwirenti Speċjali.

(6) Fejn fi kwalunkwe Inkjesta li tkun qed titwettaq mill-Pulizija tiġi skoperta evidenza ta' kwalunkwe prattika korrotta, huma għandhom jagħmlu rapport minnufih dwar dan lill-Maġistrat Inkwirenti Speċjali u l-investigazzjoni titkompla minnu.

(7) Fejn fi kwalunkwe Inkjesta msemmija fit-Titolu II tal-Parti II tat-Tieni Ktieb tal-Kodiċi Kriminali jkun hemm evidenza ta' kwalunkwe prattika korrotta, l-kopja tal-proċess verbali relatat ma' tali inkjesta inkluzi d-dokumenti kollha mehmuża jew inkluzi magħha għandha f'kull każ tiġi trażmessa wkoll lill-Maġistrat Inkwirenti Speċjali:

Rapport dwar il-konklużjoni tal-prosekuzzjoni

14. 569I(1) Fi tmiem kwalunkwe prosekuzzjoni mwettqa mill-Maġistrat Inkwirenti Speċjali, il-Maġistrat imsemmi għandu jibgħat rapport dwar il-każ, lill-

Ispeaker tal-Kamra tar-Rappreżentanti, flimkien ma' kopja tal-akkużi u ta' kwalunkwe sentenza jew digriet fejn ikun hemm.

(2) L-iSpeaker għandu jqiegħed tali rapport u dokumenti ta' akkumpanjament fuq il-Mejda tal-Kamra.

Segretezza

15. 569J. Il-proċedimenti minn jew quddiem Maġistrat Inkwirenti Speċjali għandhom ikunu sigrieti u m'għandhomx, sakemm kopja tal-*procès-verbal* fuqhom titqiegħed fuq il-Mejda tal-Kamra tar-Rappreżentanti kif previst fl-artiklu 6 ta' dan l-Att, jiġu żvelati hliet għall-fini tal-investigazzjoni li tkun qed titwettaq mill-Maġistrat Inkwirenti Speċjali.

Komunikazzjonijiet privileġġjati

16. 569K. Ma għandha tittiehed l-ebda azzjoni fil-liġi b'rabta mal-ġhoti *in bona fede* ta' kwalunkwe informazzjoni lil Maġistrat Inkwirenti Speċjali għall-finijiet ta' dan l-Att.

Il-President ta' Malta jista' jagħti eżenzjoni mill-proċedimenti kriminali

17. 569L (1) Mingħajr preġudizzju għas-setgħat mogħtija mill-artiklu 93 tal-Kostituzzjoni, soġġett għad-dispożizzjonijiet ta' din it-taqsim, il-President ta' Malta jista', jekk jaġixxi skont il-gudizzju tiegħu stess ikun sodisfatt bir-rakkomandabbiltà li jagħmel hekk, joħroġ ċertifikat bil-miktub li jeżenta lil kwalunkwe persuna msemmija fih minn kwalunkwe proċediment kriminali bil-kondizzjoni li tali persuna taġħti evidenza skont il-liġi tal-fatti kollha li taf bihom relatata ma' kwalunkwe Prattika korrotta jew kwalunkwe reat konness magħha quddiem il-Maġistrat Inkwirenti Speċjali jew quddiem kwalsiasi qorti ta' ġurisdizzjoni kriminali. Ma' l-ġhoti ta' tali ċertifikat u max-xieħda li tkun mogħtija mill-persuna li lili jkun inhareg tali ċertifikat, ma jistgħu jittieħdu ebda passi kontra tali persuna quddiem ebda qorti b'rabta ma' tali xieħda.

(2) Il-President ta' Malta jista' joħroġ iċ-ċertifikat imsemmi fis-subartiklu (1) ta' dan l-artiklu biss wara talba f'dan is-sens mill-Maġistrat Inkwiranti Speċjali.

(3) It-talba mill-Maġistrat Inkwirenti Speċjali għandha ssir bil-miktub u għandu jkun fiha d-dettalji pertinenti kollha li jistgħu jintalbu mill-President ta' Malta, u tali talba għandha tintbagħhat lill-President ta' Malta b'mod kunfidenzjali u tali talba mill-

Maġistrat Inkwirenti Speċjali ma għandhiex titqies bħala ksur tad-dispożizzjonijiet tal-artiklu 10 ta' dan l-Att.

(4) Iċ-ċertifikat maħruġ mill-President ta' Malta skont id-dispożizzjonijiet ta' din it-taqsimha għandu –

- a) meta l-evidenza għandha l-ewwel tingħata quddiem il-Maġistrat Inkwirenti Speċjali, jinżamm fl-inkjesta, u jiġi meħmuż mal-*procès-verbal* relattiv;
- b) meta l-evidenza tingħata l-ewwel quddiem qorti ta' ġurisdizzjoni kriminali, tiġi esibita fil-Qorti minn rappreżentant tal-President ta' Malta.

(5) Kopja ta' kwalunkwe ċertifikat maħruġ mill-President ta' Malta skont id-dispożizzjonijiet ta' dan l-artiklu u miżmuma fir-rekords ta' inkjesta għandha tiġi ppreżentata fuq talba tax-xhud fi kwalunkwe proċediment kontrih quddiem qorti ta' ġurisdizzjoni kriminali.

(6) Il-President ta' Malta jista' joħroġ ċertifikat skont id-dispożizzjonijiet ta' dan l-artiklu minkejja kwalunkwe oppożizzjoni mix-xhud.

(7) Għall-fini ta' din it-taqsimha "qorti ta' ġurisdizzjoni kriminali" tinkludi kwalunkwe qorti marzjali skont l-Att dwar il-Forzi Armati ta' Malta (Kap.220)

Allegazzjoni ta' influwenza illegali

18. 569M. Kwalunkwe persuna li bi profitt jew bi premju toffri s-servizzi tagħha lil kwalunkwe persuna oħra sabiex takkwista, jew inkella tipprezumi li tista' takkwista, l-favuri ta' kwalunkwe uffiċjal pubbliku b'mod li jikkostitwixxi prattika korrotta għandha, għas-sempliċi offerta jew pretensjoni, mingħajr preġudizzju għal kwalunkwe piena oħra li għaliha tista' tkun responsabbli taht kwalunkwe liġi oħra, tkun hatja ta' reat kontra dan l-Att u għandha, meta tiġi kkundannata għal piena ta' prigunerija ta' mhux inqas minn tliet xhur u mhux iktar minn sena.

TAQSIMA IV

Din it-Taqsima temenda l-Kodici Kriminali jipprovdi għall-holqien ta' reat tal-intral tal-gustizzja

Emendi tal-Kodici Kriminali

19. Immedjatament wara l-artikolu 111 tal-Kodici, għandhom jiżiedu dawn id-dispożizzjonijiet, kif ġej:

“Intral tal-gustizzja

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

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

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

(4) Kull min juża theddid jew vjolenza sabiex iwassal għall-ksur tas-subartikolu (1) jeħel il-piena applikabbli miżjuda bi grad jew tnejn skont il-gravità tat-theddid jew vjolenza.

(5) Il-Qorti għandha, dwar kull min jinstab hati ta' reat taħt dan l-Artikolu, flimkien mal-ġhoti tal-piena skont is-subartikoli preċedenti, tordna u timponi l-interdizzjoni ġenerali perpetwa.

Fuq min jisforza jew iwassal lil xi hadd biex ma jiddikjarax xi haġa jew jiddikjara l-fażull lill-awtorità ġudizzjarja.

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

TAQSIMA V

Din it-Taqsima temenda l-Kodici Kriminali biex jipprovdi għall-holqien ta' reati minn uffiċjal pubbliku inkarigat bl-infurzar tal-ligi li dolożament jonqos minn dmiru

20. Immedjatament wara l-artikolu 138 tal-Kodiċi, għandhom jiżdedu dawn id-dispożizzjonijiet, kif ġej:

“Rifjut jew omissjoni li jkun eżegwit dmir minn uffiċjali pubbliku.

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

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

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

(2) L-uffiċjal jew impjegat pubbliku li b'mod raġonevoli jiġġustifika d-dewmien tiegħu eċċedenti t-tletin jum imsemmija fis-subartikolu (1), ma tkunx ħati ta' ksur ta' dan l-artikolu.

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

TAQSIMA VI

Din it-Taqsima temenda l-Kodici Kriminali sabiex jipprevedi l-holqien ta' reati godda ta' uzu illegali ta' rizorsi elettronici mhux ufficjali minn ufficjali pubblici u impjegati

21. Immedjatament wara l-Artikolu 118 tal-Kodici, ghandu jizdied dan li gej:

“Uzu illegali ta' rizorsi elettronici mhux ufficjali minn ufficjali pubblici u impjegati”

118A. (1) Kull ufficjal jew impjegat publiku li jagħmel uzu minn rizorsi elettronici mhux ufficjali jew mhux awtorizzati għall-finijiet ta' twettiq ta' atti ta' tkomplija ta', jew fl-eżerċizzju ta', kwalunkwe ufficju publiku jew impjeg, sabiex

- a) intenzjonalment jircievi għalih personalment jew għal terzi persuni ohra vantagg patrimonjali jew monetarju ingust b'mod li b'tali agir illegali johloq dannu jew hsara jew pregudizzju għal terzi; jew
- b) jikser id-dmir tieghu li jhares l-interessi pekunjarji tal-erarju publiku u b'hekk johloq dannu jew telf finanzjarju għall-erarju publiku,

ghandu, wara kundanna, ikun sogġett għal prigunerija għal perjodu minn sitt xhur sa sentejn;

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

(3) Għall-finijiet ta' din id-dispożizzjoni, *“rizorsi elettronici mhux ufficjali jew mhux awtorizzati”* tinkludi kull apparat elettroniku, mezz, strument, jew sistema li tippermetti messagġi elettronici u telekomunikazzjoni li mhumiex awtorizzati minn xi awtorità pubblika għall-eżekuzzjoni ta' xi awtorità pubblika jew impjeg minn xi ufficjal jew impjegat publiku;

TAQSIMA VII

Din it-taqsima temenda l-Kodici Kriminali sabiex jipprovdi għall-holqien ta' reat gdid kontra l-kriminalita organizzata billi jipprovdi għall-assoċjazzjoni kriminali ta' bixra mafjuza

Emendi tal-Kodiċi Kriminali

22. Immedjatament wara l-Artikolu 83A tal-Kodiċi, għandhom jizziedu dawn id-dispożizzjonijiet, kif ġej:

3. "Artiklu 83B: Shubija, promozzjoni, tmexxija ta' assoċjazzjoni kriminali ta' bixra mafjuza.

- (1) Kull min jagħmel parti minn assoċjazzjoni kriminali ta' bixra mafjuza magħmula minn tliet persuni jew iktar, jeħel, meta jinstab hati, il-piena ta' prigunerija ta' bejn għaxar snin u hmistax-il sena;
- (2) Kull min jipromwovi, jmexxi, jorganizza assoċjazzjoni kriminali ta' bixra mafjuza, jeħel, għal dan il-fatt biss, il-piena ta' prigunerija minn tnax-il sena sa tmintax-il sena;
- (3) F'kaz li l-assoċjazzjoni kriminali ta' bixra mafjuza hija armata b'armi regolari kif imfisser fl-artiklu 64 ta' dan il-Kodici jew materjal splussiv, il-piena ta' prigunerija f'kaz ta' htija prevvist mis-subartiklu (1) ta' dan l-artiklu minn tnax-il sena sa għoxrin sena, u minn hmistax-il sena sa hamsa u għoxrin sena fil-każ prevvist taħt is-subartiklu (2) ta' dan l-Artikolu;
- (4) Assoċjazzjoni kriminali tkun ta' bixra mafjuza meta l-membri tagħha jużaw is-setgħa tal-intimidazzjoni minn rabtiet ta' shubija, l-istat ta' hakma, u kultura ta' 'segretezzi' li din trawwem, biex jitwettaq reat, biex jinkisbu kontroll dirett jew indirett fuq attivitajiet ekonomiċi, licenzji, awtorizzazzjonijiet, kuntratti tal-akkwist pubbliku jew servizzi, jew biex jinkisbu qligħ jew vantaġġi għalihom jew għal haddieħor, jew biex jigi evitat jew jitfixkel l-eżerċizzju liberu tal-vot, jew biex jinkisbu voti għalihom jew għal haddieħor fl-elezzjonijiet;
- (5) L-assoċjazzjoni msemmija fis-subartiklu (1) ta' dan l-artiklu hija meqjusa armata meta l-membri tagħha għandhom access dirett jew indirett għall-armi regolari kif imfisser fl-artiklu 64 ta' dan il-Kodici jew

materjal splussiv biex jintlahaq l-ghan jew ghanijiet tal-assocjazzjoni msemmija;

- (6) Is-shubija f'assocjazzjoni bhal din hija minnha nnifisha reat punibbli anke jekk ma tkunx tista' tinkiseb rabta diretta bejn persuna mafjuza u l-eżekuzzjoni ta' xi reat imwettaq mill-membri tagħha f'isem l-assocjazzjoni.
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TAQSIMA VIII

Din it-taqsima temenda l-Att dwar il-Prevenzjoni tal-Hasil tal-Flus (Kap.373) sabiex tipprovdi għall-ligi gdida għal Ordni ta' Ġid mhux spjegat

Immwedjatement wara Parti II, tizzied Parti III gdida kif gej:

PARTI III

Ġid mhux spjegat

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

(2) Ir-rikors għal ordni għandu —

- a) jispeċifikaw jew jiddeskrivu l-proprjetà li għaliha qed tintalab l-ordni, u
- b) jispeċifika l-persuna li l-Avukat Ġenerali jaħseb li għandha l-proprjetà ("l-intimat"). Il-persuna speċifikata tista' tkun persuna li qiegħda barra minn Malta;

24. Ordni ta' ġid mhux spjegat hija ordni li tirrikjedi li l-intimat jipprovdi dikjarazzjoni:-

- a) li tistabbilixxi n-natura u l-firxa tal-interess tal-intimat fil-proprjetà li fir-rigward tagħha tkun saret l-ordni,
- b) li tispjega kif l-intimat kiseb il-proprjetà (inkluż, b'mod partikolari, kif ġew issodisfati kwalunkwe spejjeż fil-kisba tagħha),
- c) meta l-proprjetà tkun miżmuma mill-fiduċjarji ta' *trust*, li jistabbilixxi d-dettalji tat-trust kif jista' jkun speċifikat fl-ordni, u
- d) li jistabbilixxi tali informazzjoni oħra b'rabta mal-proprjetà kif jista' jiġi speċifikat b'dan il-mod.

4. L-ordni trid tispeċifika —

- a) il-forma u l-mod kif għandha tingħata d-dikjarazzjoni,
- b) il-persuna li lilha għandha tingħata, u

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

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

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

Rekwiżiti biex isir ordni ta' ġid mhux spjegat

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

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

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

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

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

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

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

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

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

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

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

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

- a) jekk hemmx jew le persuni oħra li wkoll għandhom il-proprjetà;
- b) jekk il-proprjetà nkisbitx mill-intimat qabel jew wara d-dhul fis-seħh ta' din it-taqsima.

(7) Għall-finijiet tas-subtaqsima (3):

- a) għandha titqies kwalunkwe ipoteka, imposta jew tip ieħor ta' garanzija li huwa raġonevoli li wieħed jassumi li kienet jew setgħet kienet disponibbli għall-intimat għall-finijiet tal-kisba tal-proprjetà;
- b) għandu jiġi preżunt li l-intimat kiseb il-proprjetà għal prezz ekwivalenti għall-valur tas-suq tiegħu;
- c) id-dhul huwa “miksib legalment” jekk jinkiseb legalment skont il-liġijiet tal-pajjiż minn fejn joriġina d-dhul;
- d) huma sorsi “maghrufa” ta' dhul dawk kollha li gejjin minn dhul finanzjarju (sew jekk minn impjeg sew jekk le) li jista' jiġi accertat b'mod raġonevoli mill-informazzjoni disponibbli fil-mument li issir it-talba għall-Ordni;
- e) meta l-proprjetà tkun interess fi proprjetà oħra inkluża fi *trust*, ir-referenza għall-intimat li jikseb il-proprjetà għandha tittiehed daqslikieku kienet referenza biex l-intimat jikseb sjieda diretta ta' tali sehem fil-proprjetà saldata kif tirrelata ma', jew tkun rappreżentata b'mod ġust minn, dak l-interess.

26. (1) Fis-subinciz (4) (a) tal-Artikolu 7, “persuna politikament esposta” tfisser individwu li —

- a) huwa, jew kien, fdat b'funzjonijiet pubbliċi prominenti minn organizzazzjoni internazzjonali jew minn Malta jew minn kwalunkwe Stat ieħor;
- b) membru tal-familja ta' individwu deskritt f'paragrafu (a),
- c) maghruf li huwa assoċjat mill-qrib ma' individwu deskritt f'dak il-paragrafu, jew

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

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

- a) jekk persuna gietx fdata b'funzjonijiet pubbliċi prominenti (ara l-punt (9) ta' dak l-Artikolu),
- b) jekk persuna hijiex membru tal-familja (ara l-punt (10) ta' dak l-Artikolu), u
- c) jekk persuna hijiex magħrufa bħala assoċjata mill-qrib ta' persuna oħra (ara l-punt (11) ta' dak l-Artikolu).

Effett tal-ordni: Kazijiet ta' nuqqas ta' konformità

28. (1) Meta l-intimat jonqos, mingħajr skuza raġonevoli, milli jikkonforma mar-rekwiziti imposti minn ordni ta' proprjetà mhux spjegata fir-rigward ta' kwalunkwe proprjetà qabel tmiem il-perjodu ta' rispons, il-proprjetà għandha tiġi preżunta li hija proprjetà rekuperabbli għall-finijiet ta' kwalunkwe proċediment li jittiehed fir-rigward tal-proprjetà, sakemm ma jintweriex il-kuntrarju.

Għall-finijiet tas-subtaqsima (1) —

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

Effett tal-ordni: Kazijiet ta' konformità jew allegata konformità

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

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

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

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

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

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

- a) l-intimat jikkonforma mar-rekwiżiti imposti minn ordni ta' ġid mhux ġustifikat biss jekk ikun hemm konformità mar-rekwiżiti kollha,
- b) ir-referenzi għall-jum tal-konformità huma għall-jum li fih ir-rekwiżiti imposti mill-ordni jiġu ssodisfati (jew, jekk ir-rekwiżiti jiġu ssodisfati fuq aktar minn jum wiehed, l-aħħar waħda minn dawk il-ġranet), u
- c) meta ordni tkun tehtieg li tintbagħat informazzjoni bil-miktub lil, jew il-produzzjoni ta' dokumenti f'indirizz speċifikat fl-ordni, il-konformità mal-ordni (sa fejn tkun relatata ma' dak ir-rekwiżit) isseħħ meta tasal l-informazzjoni bil-miktub, jew meta d-dokumenti jiġu pprezentati, f'dak l-indirizz,

u fil-paragrafi (a) sa (c) ir-referenzi għall-konformità jinkludu l-allegata konformità.

Reat

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

- a) tagħmel dikjarazzjoni li l-persuna taf li hija falza jew qarrieqa f'materjal partikolari, jew
- b) tagħmel dikjarazzjoni bi traskuraġni li tkun falza jew qarrieqa f'materjal partikolari.

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

Dikjarazzjonijiet

31. (1) Dikjarazzjoni maghmula minn persuna bi twegiba għal rekwiżit impost minn ordni ta' gid mhux ġustifikat ma tistax tintuża bħala evidenza kontra dik il-persuna fi proċedimenti kriminali.

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

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

- a) hija għandha kontroll effettiv fuq il-proprjetà;
- b) hija l-fiduċjarju ta' tranzazzjoni li fiha hija kkostitwita l-proprjetà;
- c) hija beneficijarju (kemm attwali kif ukoll potenzjali) fir-rigward ta' tali *trust*.

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

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

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

Supplimentari

33. Talba dwar gid mhux spjegat tista' ssir mingħajr avviż.

15. Ordnijiet ta' ffrizar interim

(1) Meta l-Qorti Kriminali tohroġ ordni ta' proprjetà mhux spjegata fir-rigward ta' kwalunkwe proprjetà, hija tista' tohroġ ordni ta' ffrizar *interim* fir-rigward tal-proprjetà jekk il-qorti tqis li jkun meħtieġ li tagħmel dan għall-finijiet li jiġi evitat

ir-riskju li kwalunkwe ordni ta' rkupru li tista' tinkiseb sussegwentement tigi ffrustrata;

- (2) Ordni ta' ffrizar interim hija ordni li tipprojbixxi lill-intimat għall-ordni ta' proprjetà mhux spjegata, u lil kwalunkwe persuna oħra b'interess fil-proprjetà, milli tittratta l-proprjetà b'xi mod;
- (3) Ordni ta' ffrizar *interim*:
 - a) jista' jsir biss fuq talba bil-miktub tal-Avukat Ġenerali;
 - b) għandha ssir fl-istess proċedura bħal dik li fiha jsir l-ordni ta' gid mhux ġustifikat, u
 - c) jista' jingħaqad f'dokument wiehed mal-ordni ta' gid mhux ġustifikat.

Varjazzjoni u rilaxx ta' ordni ta' iffriżar *interim*

34. (1) Il-Qorti Kriminali tista' fi kwalunkwe hin tvarja jew tirrorilaxxa ordni ta' ffrizar interim.

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

(3) Qabel ma teżercita s-setgħa skont dan l-Artikolu biex tvarja jew tirrorilaxxa ordni ta' iffriżar *interim*, il-qorti trid (minbarra li tagħti lill-partijiet fil-proċedimenti l-opportunità li jinstemgħu) tagħti tali opportunità lil kwalunkwe persuna li tista' tigi affettwata mid-deċizzjoni tagħha.

Esklużjonijiet

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

- a) is-setgħa li l-proprjetà tigi eskluża mill-ordni, u
- b) is-setgħa, hliet bl-esklużjoni tal-proprjetà mill-ordni, li jsiru esklużjonijiet mill-projbizzjoni tat-trattament tal-proprjetà li għaliha tapplika l-ordni.

(2) Esklużjonijiet mill-projbizzjoni tat-trattament tal-proprjetà li għaliha tapplika l-ordni (minbarra esklużjonijiet ta' proprjetà mill-ordni) jistgħu jsiru wkoll meta ssir l-ordni.

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

a) biex jithallsu l-ispejjeż raġonevoli tal-ghajxien tal-persuna, jew

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

(4) Esklużjoni tista' ssir soġġetta għal kundizzjonijiet.

(5) Meta l-Qorti teżercita s-setgħa li tagħmel esklużjoni sabiex persuna tkun tista' thallas l-ispejjeż legali li l-persuna tkun garrbet, jew li tista' gġarrab, fir-rigward ta' proċedimenti skont dan l-Att, hija għandha tiżgura li l-esklużjoni —

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

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

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

Riċevituri b'rabta ma' ordnijiet ta' iffriżar *interim*

36. (1) Meta l-Qorti Kriminali tohrog ordni ta' iffriżar *interim* fuq rikors mill-Avukat Ġenerali, il-qorti tista', fuq talba bil-miktub tal-Avukat Ġenerali, taħtar riċevitur fir-rigward ta' kwalunkwe proprjetà li għaliha tapplika l-ordni ta' ffrizjar interim.

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

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

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

Setgħat tar-riċevituri

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

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

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

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

Superviżjoni tar-riċevitur u varjazzjonijiet

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

a) ir-riċevitur;

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

c) persuna affettwata minn azzjoni meħuda mir-riċevitur;

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

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

a) ir-riċevitur;

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

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

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

Kumpens

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

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

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

- a) ir-rikorrenti soffra dannu minħabba l-għoti tad-digriet ta' ffrizar provvizorju,
- b) kien hemm nuqqas serju min-naħa tal-Avukat Ġenerali li kien applika għall-ordni, u
- c) l-ordni ma kinitx issir li kieku ma seħhitx l-inadempjenza.

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

- a) il-kumpens huwa pagabbli mill-Avukat Ġenerali, u
- b) l-ammont tal-kumpens li għandu jithallas huwa l-ammont li l-Qorti tqis raġonevoli, fid-dawl tat-telf imġarrab u kwalunkwe ċirkostanza rilevanti oħra;

Infurzar barra mill-pajjiż

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

- (a) jkun jidher li huwa meħtieġ li l-Avukat Ġenerali jigi evitat ir-riskju li kwalunkwe ordni ta' rkupru li tista' tinkiseb sussegwentement tiġi frustrata, u
- (a) l-Avukat Ġenerali jemmen li l-proprjetà tinsab f'pajjiż barra minn Malta (il-pajjiż riċeventi)

Huwa jista' jibgħat talba għall-assistenza fir-rigward tal-proprjetà lill-Ministru tal-Affarijiet Barranin bil-għan li din tintbagħat skont dan l-Artikolu;

(2) Il-Ministru tal-Affarijiet Barranin huwa obligat jibgħat it-talba għall-assistenza lill-Gvern tal-pajjiż riċeventi minnufih;

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

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

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

Infurzar barra mill-pajjiż: Riċevitur

41 (1) Jekk ordni ta' ffrizar interim ikollha effett fir-rigward tal-proprjetà, u r-riċevitur mahtur skont l-Artikolu 18 fir-rigward tal-proprjetà jemmen li din tinsab f'pajjiż barra minn Malta (il-pajjiż riċeventi), ir-riċevitur jista' jibgħat talba għall-assistenza fir-rigward tal-proprjetà lill-Ministru tal-Affarijiet Barranin bil-ħsieb li din tintbagħat skont dan l-Artikolu.

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

(3) Talba għall-assistenza taħt din it-taqsimha hija talba lill-Gvern tal-pajjiż riċeventi:-

(a) li jiġi żgurat li kwalunkwe persuna tkun ipprojbata milli tittratta l-proprjetà;

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

TAQSIMA IX

Din it-taqsima temenda l-Kodici Kriminali biex jipprovdi għall-holqien ta' reat gdid għal min jabbuza mill-awtorità tal-uffiċċju tiegħu

Emendi tal-Kodiċi Kriminali.

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

4. "127A Abbuż tal-Awtorita Pubblika

“(1) “Sakemm ma jkunx jikkostitwixxi fatt iktar gravi, kull ufficjal jew impjegat pubbliku li, fil tal-qadi tal-funzjonijiet tiegħu jew fl-ghoti ta' servizz, bi ksur ta' xi regola specifika ta' kondotta li tkun espressament stipulata mil-ligi jew minn att li għandu s-sahha ta' ligi, liema ligi jew att ma jhallu ebda lok ta' diskrezzjoni fl-ezercizzju ta' dik il-funzjoni jew servizz:

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

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

jew

(c) jabbuza mill-fiducja mistennija minnu billi jikser (anke jekk b'negligenza) id-dmir tiegħu li jhares l-interessi pekunjarji tal-erarju pubbliku u b'hekk johloq dannu jew telf finanzjarju għall-erarju pubbliku,

jehel, meta jinstab hati, fil-kaz taht il-paragrafu (a) il-piena ta' bejn sena u sentejn prigunerija, u fil-kaz taht il-paragrafi (b) u (c) il-piena ta' bejn sentejn u hames snin prigunerija.

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

TAQSIMA X

Din it-taqsima temenda l-Kostituzzjoni ta' Malta biex tippovdi ghodda ahjar 'l Pulizija fl-investigazzjoni ta' delitti gravi

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

Titolu fil-qosor

43. It-titolu fil-qosor ta' dan l-Att huwa l-Att dwar il-Kostituzzjoni ta' Malta (Emenda), 2022, minn hawn 'il quddiem imsejjaħ "l-Att prinċipali".

Żieda ta' l-Artikolu 34(3)(ċ) ġdid għal-ligi prinċipali.

44. Is-subartiklu ġdid li ġej (ċ) għandu jżied wara l-Artikolu 34(3)(b) tal-ligi prinċipali:

"Artikolu 34(3)(ċ)

Il-perjodu massimu ta' tmienja u erbghin siegħa msemmi fis-subtaqsima preċedenti ta' dan l-Artikolu għandu jitqies li ma jkunx aktar minn tnejn u sebghin siegħa fil-każ ta' persuna detenuta jew arrestata fuq suspett raġonevoli li wettqet, jew li se twettaq, reat kriminali skont l-Artikolu 211 tal-Kodiċi Kriminali, ir-reati skont is-SubTitolu IV A tat-Titlu IX tat-II Parti, r-reati skont it-Titolu I u t-Titolu I bis tat-Tieni Parti tal-Kodiċi Kriminali, r-reati taht l-artikli 112-121E, 127A tal-Kodiċi Kriminali, ir-reat ta' traffikar ta' droga jew medicina taht il-Kap.31 u Kap.101 tal-Ligijiet ta' Malta u r-reati taht il-Kapitolu 373 tal-Ligijiet ta' Malta.

B'dan pero li fl-iskadenza tat-tmienja u erbghin siegħa detenzjoni jew arrest, il-Kummissarju tal-Pulizija, permezz ta' dikjarazzjoni ġuramentata quddiem il-Maġistrat Inkwiranti, irid jispjega fid-dettall ir-raġuni għat-talba li l-perijodu ta' arrest jew detenzjoni jiġi estiż għal tnejn u sebghin siegħa u jingħata bil-miktub il-kunsens tal-Maġistrat Inkwiranti.

Fl-ebda każ u taht l-ebda ċirkostanza ma għandhom l-arrest jew id-detenzjoni jkomplu għal aktar minn tnejn u sebghin siegħa."

TAQSIMA XI

Din it-taqsima temenda l-Kostituzzjoni ta' Malta biex tipprovdi ghall-ghola protezzjoni possibbli ghad-dritt ta' gurnalizmu hieles, indipendenti u imparzjali bhala wiehed mill-pillastri ewlenin tas-Saltna tad-Dritt

Emenda fl-artikli 20A u 21 tal-ligi principali u z-zieda ta' artiklu 22 gdid fil-ligi principali kif gej:

45. L-artiklu 20A ghandu jkun rinumerat bhala Artiklu 21 u l-artiklu 21 ghandu jkun rinumerat bhala artiklu 23, u artiklu 22 gdid ghandu jiddahhal immedjatament wara l-artiklu 21 rinumerat kif gej:

“(1) L-iStat jirrikonoxxi l-istampa hielsa bhala pilastru ewlieni fid-demokrazija u l-irwol pre eminenti taghha fi Stat fejn issaltan is-saltna tad-Dritt u ghandu d-dmir imexxi ‘l quddiem l-indipendenza tal-istampa u jissalvagwardja l-pluralizmu fil-media. L-iStat ghandu obbligu pozittiv li jhares u jipromwovi l-liberta tal-istampa billi jipprovdi ambjent li jiffacilita l-gurnalizmu ghal gurnalisti u persuni ohra fil-media.

(2) L-iStat ghandu jipromwovi partecipazzjoni wiesgha fid-dibattitu pubbliku fuq kwistjonijiet ta' interess pubbliku u ghandu jassigura li gurnalisti, persuni ohra fil-media u membri tal-pubbliku ma jkunux skoraggjeti, inkluz mill-biza ta' sanzjonijiet, retribuzzjoni jew forma ohra ta' ritaljazzjoni, milli jsemmaw u jesprimu l-opinjoni taghhom fuq kwistjonijiet ta' interess pubbliku jew milli jesprimu gudizzji ta' kritika anke jekk il-verita ma tistax tkun pruvata.

(3) L-iStat jirrikonoxxi l-obbligu tal-istampa li twassal, b'mod konsistenti mal-obbligi u responsabbilitajiet taghha bhala ghassies pubbliku, taghrif u ideat fuq kull kwistjoni ta' interess pubbliku.

(4) L-iStat ghandu jiffacilita l-access u l-ghoti ta' informazzjoni veritiera u kredibbli moghtija minghajr hela ta' zmien lil gurnalista u persuni ohra fil-media ghall-uzu taghha skond l-etika tal-gurnalizmu u l-principju ta' bona fede.

(5) Ebda gurnalist ma jista' jigi mgieghel jikxef l-identita tas-sorsi tieghu u l-gurnalisti huma intitolati jiprotegu s-sorsi taghom.

(6) L-iStat ghandu jhares b'kull mod 'l gurnalisti minn kawzi strategici kontra partecipazzjoni pubblika maghmula fi qrati barra minn Malta u f'Malta (SLAPP) u minn theddied ta' kawzi strategici kontra partecipazzjoni pubblika sew jekk mhedda li jigu istitwieti fi qrati barra minn Malta u f'Malta (SLAPP).

Emendi fl-artiklu 41 tal-ligi principali:

46. Artikolu 41 ghandu jigi emendat kif gej:

(i) Sub-artikolu (1) u (2) tal-artikolu 41 ghandhom jigu sostitwieti bis-segwenti sub-artikoli godda:

(1) Kullhadd ghandu d-dritt ghal-liberta ta' espressjoni. Hadd ma ghandu jigi mfixkel fit-tgawdija tal-liberta tieghu ta' espressjoni, maghduda liberta li jkollu fehmiel minghajr indhil, liberta li jircievi idejiet u taghrif minghajr indhil, liberta li jikkomunika idejat u taghrif minghajr indhil (kemm jekk il-komunikazzjoni tkun lill-pubbliku in generali jew lil xi persuna jew klassi ta' persuni) u liberta minn indhil dwar il-korrispondenza tieghu. Dawn il-libertajiet huma rikonoxxuti u ghandhom jitgawdew bhala wahda mill-kondizzjonijiet ewlenin ghall-progress ta' socjeta demokratika u ghall-izvilupp ta' kull individwu.

(2) L-ezercizzju ta' dawn il-libertajiet, billi jgib mieghu dmirijiet u responsabbiltajiet, jista' jkun suggett ghal dawk il-formalitajiet, kundizzjonijiet, restrizzjonijiet jew penali kif preskritti b'ligi u li jkunu mehtiega f'socjeta demokratika, fl-interessi tas-sigurtà nazzjonali, integrita territorjali jew sigurtàpubblika, biex jigi evitat id-dizordni jew l-eghmil ta' delitti, ghall-protezzjoni tas-sahha jew tal-morali, ghall-protezzjoni tar-reputazzjoni jew drittijiet ta' haddiehor, biex jigi evitat il-kxif ta' informazzjoni ricevuta b'sigriet, jew biex tigi mizmuma l-awtorita u l-imparzjalita tal-gudikatura.

(3) Id-dritt ta' kullhadd ghal gurnalizmu hieles u indipendenti ghandu jigi protett. Minghajr pregudizzju ghas-subartikolu precedent, b'rikonoxximent tar-rwol tal-istampa bhala pilastru ta' socjeta demokratika, ma ghandu jkun hemm l-ebda indhil minn awtorita pubblika fl-ezercizzju tal-liberta ta' espressjoni mill-

gurnalisti u persuni oħra fil-media, hlif fejn ikun hemm htiega soċjali gravi u urgenti.

(4) Awtoritajiet pubbliċi għandu jiffacilitaw l-access għall-informazzjoni għall-istampa u għandhom jipprovdu informazzjoni veritiera u kredibbli mogħtija mingħajr hela ta' zmien skond l-obbligi ta' trasparenza u kontabbilita tal-iStat.

(5) Il-protezzjoni ta' sorsi tal-gurnalisti inkluż informazzjoni li tista' tidentifika sors ta' gurnalist hija garantita u ma tistax tigi restretta hlif bil-kundizzjonijiet imsemmija fis-subartikolu 2 ta' dan l-artikolu, hlif ukoll li l-kxif huwa meqjus necessarju f' soċjeta demokratika fejn jigi stabbiliet b' mod konvincenti li:

- i. ma jeżistux mizuri alternattivi ragonevoli jew li dawn gew ezawrieti mill-persuni jew mill-awtoritajiet pubbliċi li qed ifittxu l-izvelar tas-sors, u
- ii. l-interess legittimu fl-izvelar b' mod car huwa ta' importanza akbar mill-interess pubbliku li ma jsehhx dak l-izvelar u dan kemm-il darba dik il-htiega li teżorbta l-interess pubbliku tigi pruvata, c-cirkustanzi huma sufficjalment vitali u ta' natura serja u l-htiega tal-izvelar hija identifikata bħala meħtiega minhabba htiega soċjali urgenti.

(6) Kullhadd għandu d-dritt jara li l-iStat jwettaq id-dmirijiet u obliġi pozittivi tiegħu sabiex ikun promos u zġurat li l-gurnalizmu hieles u indipendenti.

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

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

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

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

TAQSIMA XII

Din it-taqsimha temenda l-Att dwar il-Midja u l-Malafama sabiex tipprovdi għall-protezzjoni kontra kawzi strategici kontra l-partecipazzjoni pubblika (“SLAPP” suits)

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

Klawzola 47. Emenda tal-Artiklu 5(4) tal-Att dwar il-Midja u l-Malafama

L-artikolu 5(4) għandha tigi sostitwieta b’li gej:

“(4) Fid-deċiżjoni dwar jekk kienx raġonevoli għall-konvenut li jemmen li l-pubblikazzjoni ta’ dik id-dikjarazzjoni li dwarha jkun sar l-ilment kienet fl-interess pubbliku, il-Qorti għandha tippermetti għal:

(a) ġudizzju editorjali; u

(b) partecipazzjoni f’ dibattitu pubbliku fuq kwistjonijiet ta’ interess pubbliku minghajr biza ta’ azzjoni legali.”

Klawzola 48. Emenda tal-Artikolu 10 tal-Att dwar il-Midja u l-Malfama

Is-segweni sub artikolu (4) għid għandu jigi mizdud immedjattament wara artikolu 10(3):

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

Emendi fil-Kodici ta’ Organizazzjoni u Procedura Civili, Kapitolu 12 tal-Ligijiet ta’ Malta

Klawsola 49. Emenda tal-Art. 827(1)(c) tal-Kodici ta' Organizazzjoni u Procedura Civili

Art. 827 (1)(c) ghandu jigi emendat biex jaqra kif gej:

"(c) jekk is-sentenza jkollha xi disponiment kuntrarju ghall-ordni pubbliku jew kuntrarja ghal-ligi pubblika interna ta' Malta;

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

Klawsola 50. Emenda tal-Art 827 (2) tal-Kodici ta' Organizazzjoni u Procedura Civili

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

Ghanijiet u Ragunijiet

L-ghanijiet u r-ragunijiet ta' dan l-Abbozz huma sabiex il-Kostituzzjoni ta' Malta telenka d-dmirijiet l-iktar importanti tal-Gvern ta' Malta u dan sabiex is-Saltna tad-Dritt tissahhah u jigi imliggem l-abbuz minn min imexxi l-pajjiz; li

jigi żgurat li ladarba l-Parlament jigi xolt u jinholoq Gvern interim, is-setgħat u d-dmirijiet ta' Gvern temporanju jkunu limitati għal amministrazzjoni ordinarja u li ma tittiehed l-ebda deċiżjoni straordinarja mill-Gvern *interim* li torbot lil Kabinett futur b'miżuri li ma jistgħux jitwarrbu u li jigi żgurat li l-gvern *interim* ma jabbużax mill-pożizzjoni tiegħu għad-detriment tal-Oppożizzjoni sabiex l-elezzjonijiet ġenerali jsiru b'mod ġust u xieraq; jigi stabbilit Maġistrat Inkwirenti Speċjali għall-fini tat-twettiq ta' investigazzjonijiet dwar Prattiki Korrotti u għall-bidu ta' proċeduri kriminali kontra persuni għal Prattiki Korrotti, u dan sabiex il-għieda kontra l-korruzzjoni tissahhah b'mod effettiv; jsir reat kull għemil li sir bil-għan li l-amministrazzjoni tal-Gustizzja tigi imfixkla; jsir reat dak l-għemil ta' uffiċjal jew impjegat pubbliku li jabdika dolożament mill-qadi ta' dmirijietu; l-użu illegali u mhux awtorizzat ta' riżorsi elettronici minn kwalunkwe uffiċjal jew impjegat pubbliku bil-ħsieb li issir ħsara għall-erarju pubbliku jew għall-vantagg patrimonjali ingust jibda jitqies bħala reat kontra l-awtorità pubblika; kull shubija ta' assocjazzjoni kriminali b'bixra mafjuza tkun meqjusa bħala delitt u għall-ewwel darba qed tingħata tifsira ta' tali assocjazzjoni mafjuza; biex il-Qorti Kriminali jkollha s-setgħa li tohrog Ordnijiet tal-Ġid mhux Spjegat sabiex jigi miġġieled b'mod hafna aktar effettiv u effiċjenti r-reati tal-ħasil tal-flus u l-korruzzjoni bil-għan li tintemm l-impunità iġġenerata minn dawn ir-reati; li jkun meqjus delitt kriminali l-aġir intenzjonali ta' dak l-uffiċjal jew impjegat pubbliku li b'abbuż maħsub tal-awtorità tiegħu jikkometti aġir jew omissjoni bil-għan li joħloq vantaġġ għalih jew għal terzi jew biex joħloq preġudizzju jew ħsara jew dannu lil terzi; li tissahhah il-għieda kontra l-kriminalita organizzata billi jwieġeb għall-kumplessità li qed tevolvi tal-investigazzjonijiet kriminali f'reati serji hafna bħal omiċidju volontarju, traffikar ta' droga, tixhim, ħasil tal-flus, ġenoċidju, terroriżmu, kolp ta' Stat u reati kontra s-sigurta tal-Gvern, billi jestendi l-perjodu massimu ta' arrest jew detenzjoni mill-massimu ta' 48 siegħa għal massimu ta' 72 siegħa, u dan biss wara l-kunsens tal-Maġistrat Inkwirenti bil-miktub; id-dritt fundamentali għal gurnalizmu hieles għandu jkun ankrat fil-Kostituzzjoni ta' Malta u l-obbligi pozittivi tal-iStat favur gurnalizmu hieles u indipendenti huma immizzla għall-ewwel darba fil-Kostituzzjoni ta' Malta; biex jipprotegi lil istampa, l-gurnalizmu u persuni oħra minn proċeduri u kawzi migjuba kontra tagħhom u li għandhom l-effett li jiccensuraw, irazznu, jintimidaw u jwaqqfu l-liberta tal-espressjoni u l-partecipazzjoni f'dibattitu dwar kwistjonijiet ta' interess pubbliku;

A BILL

entitled

AN ACT to to implement the main conclusions and recommendations of the Public Inquiry Board on the assassination of Daphne Caruana Galizia with the aim of providing Malta with more structures and tools to fight organised crime, abuse of power and corruption, to entrench media freedom as a fundamental human right in a democratic society and to provide effective protection to journalists from strategic lawsuits filed against them in foreign jurisdictions.

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:-

ARRANGEMENT OF THE ACT

Part I Amendment to the Constitution of Malta to list the duties of Government as the guardian of the Rule of Law

Part II Amendment to the Constitution of Malta to list the duties of caretaker Government

Part III Amendment to the Criminal Code to establish the Office of Special Inquiring Magistrate against Corruption

Part IV Amendment to the Criminal Code to establish the crime of obstruction of justice

Part V Amendment to the Criminal Code to establish the crime of wilful dereliction of duties by public officers in charge of justice

Part VI Amendment to the Criminal Code to establish the crime of illegal use of unauthorised electronic means of communication by public officers to the detriment of public monies

Part VII Amendment to the Criminal Code to establish the crime of criminal associations of mafia like character

Part VIII Amendment to the Prevention of Money Laundering Act to provide for Unexplained Wealth Orders

Part IX Amendment to the Criminal Code to establish the crime of abuse of public authority

Part X Amendment to the Constitution of Malta to strengthen the tools of Police in fighting serious crime

Part XI Amendment to the Constitution of Malta to establish media freedom as one of the pillars of democracy

Part XII Amendment to the Media and Defamation Act, and the Code of Organisation and Civil Procedure to protect journalists from SLAPP

PART I

Short title

1. The short title of this Act is the Constitution of Malta (Amendment) Act, 2022, hereinafter referred to as “the principal Act”.

Addition of new article 64C to the principal law.

2. The following new article shall be added after article 96 of the principal law:

Article 64C

As guardian of the rule of law, custodian of the nation’s patrimony and promoter of society’s well being, it shall be duty of every Government to:

- a) act lawfully, especially in accordance with this Constitution and binding international treaties;
- b) act in accordance with the law, and with due regard to the rights of citizens;
- c) refrain from arbitrariness;
- d) observe due process;
- e) act reasonably, including taking account of established good practice;
- f) provide efficient, effective and responsive service;
- g) take reasonable decisions objectively;
- h) spend public funds with care and propriety;
- i) give citizens a fair deal;
- j) provide open, accessible and accountable service;
- k) act fairly and proportionately, including treating people without any improper discrimination or prejudice and ensuring that no conflict of interest exists;
- l) ensure that decisions and actions are proportionate, appropriate and fair.

PART II

entitled

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

Addition of new article 96A to the principal law.

3. The following new article shall be added after article 96 of the principal law:

"Caretaker government

76A. (1) When parliament is dissolved in terms of article 76 of this Constitution, a caretaker government shall come into being.

(2) No decisions shall be taken which binds a new Cabinet in a way that such new Cabinet would not be able to undo such a measure in the *interregnum* period between a dissolution of parliament and the formation of a new Cabinet.

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

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

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

- (a) making subsidiary legislation;
- (b) bring into force legislation;
- (c) implementing major policy initiatives;
- (d) making appointments; and
- (e) entering into binding major contracts during the interregnum;

(6) During the *interregnum* period, no permits, permissions, authorisations, licences, permits, concessions, privileges, dispensations, general or specific amnesties, et similia shall be granted by any body corporate established by law. Nor shall any allocations of government land or housing be made.

(7) Parliament may by Act of Parliament provide for the better carrying out of the provisions of this article and may regulate any other matter ancillary or incidental thereto or considered necessary to or expedient therefor in ensure that a caretaker government complies with the provisions of this article during the interregnum period”.

Amendment of article 66 of the principal law.

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

PART III

This Part amends the Criminal Code and sets up the Office of Special Inquiring Magistrate against Corruption

Immediately after article 569 in the Criminal Code, the following new articles shall be added

Interpretation

4. 569A(1) In this Act unless the context otherwise requires:

"corrupt practice" has the meaning assigned to it in subsection (2) of this section;

"public officer" means the holder of any public office or a person appointed to act in any such office, and includes not only the constituted authorities, civil and military, but also all such persons as are lawfully appointed to administer any part of the executive power of the Government, or to perform any other public service imposed by law, whether it be judicial, administrative or mixed, and includes persons of trust and those occupying positions of trust; members of the House of Representatives; any person who is entrusted with or has functions relating to the administration of a statutory body having a distinct legal personality, any council, Board, panel, committee or other similar body established by any law, or who is employed with such a body; and includes, in relation to any act or omission during the tenure of such post, any person who, within a period of five years before or at any time after the coming into force of this Act, was a public officer;

"statutory body" means any corporation or other body corporate established by law and includes also any partnership or other body in which the Government of Malta, or any such body as aforesaid, have a controlling interest or over which they have effective control.

Corrupt practices

(2) The following shall be corrupt practices under this Act:

(a) the acts and omissions which constitute the offences under sections 112 to 118, 120 to 121D, 124 to 127A, and 138 of the Criminal Code;

(b) the offence of allegation of unlawful influence under article 13 of this Act;

(c) the acts or omissions which constitute an attempt to commit any of the aforesaid offences or which constitute complicity in any of those offences under sections 41 and 42 of the Criminal Code.

Special Inquiring Magistrate

8. 569B(1) The President of Malta shall assign to one of the Magistrates of the Inferior Courts, duties as Special Inquiring Magistrate.

(2) The Special Inquiring Magistrate shall have the powers and shall exercise the functions set out in this Act, and shall not while assigned such duties perform any other duty as Magistrate of the Inferior Courts.

(3) An assignment of duties as Special Inquiring Magistrate shall be for a period of six years. On the termination of the said period of six years a Magistrate may again be assigned such duties for a further period of periods of six years each.

(4) The Special Inquiring Magistrate may not during the period of his assignment as such be removed from such duties or be assigned to other duties. He shall, however, cease to act as Special Inquiring Magistrate if he shall for any cause cease to be a Magistrate.

(5) In the exercise of his functions under this Act the Special Inquiring Magistrate shall act independently and shall not be subject to the direction or control of any other person or authority, save as by law provided.

Functions and Duties of Special Inquiring Magistrate.

9. 569C(1) It shall be the function of the Special Inquiring Magistrate to carry out the inquiries, carry out the investigations and to make a report thereon to the Speaker as provided for in this Act.

(2) Criminal action in respect of corrupt practices shall vest in the Special Inquiring Magistrate.

(3) If, in cases where the exercise of criminal action is vested in the Special Inquiring Magistrate, he shall upon any report in regard to the commission of a corrupt practice, refuse to institute proceedings. It shall be lawful for the person who made the report to make an application to the Criminal Court for an order to the Special Inquiring Magistrate to institute proceedings; and if, after hearing, where necessary, the evidence tendered by the applicant, and the Special Inquiring Magistrate, the Court is satisfied

that report is *prima facie* justified, it shall allow the application and shall, through the Registrar, notify the Special Inquiring Magistrate of the order given thereon:

Provided that, before any action is taken on any such application, the applicant shall confirm the report on oath, and shall enter into a recognisance in a sum to be fixed by the court, to give evidence at the trial, if so required, or to furnish any such evidence at his disposal as may lead to the conviction of the party accused.

(4) The provisions of subsection 2 of Section 383, Sections 386 and 387 of the Criminal Code shall, in so far as applicable, apply to any recognisance under subsection (3) of this article.

Office and staff of the Special Inquiring Magistrate

10. 569D(1) The Minister responsible for Justice shall provide the Special Inquiring Magistrate with suitable premises for his office; and shall in consultation with the Special Inquiring Magistrate determine the staffing requirements of his office and shall assign public officers to the office of the Special Inquiring Magistrate accordingly:

Provided that no person may be assigned duties at the office of the Special Inquiring Magistrate except with the approval of the Special Inquiring Magistrate.

(2) The Special Inquiring Magistrate shall have power to request the assistance of the Police in the conduct of any investigations into alleged or suspected corrupt practices under this Act and the Commissioner of Police shall detail officers of the police to give the assistance requested:

Provided that the provisions of the proviso to subsection (1) of this section shall *mutatis mutandis* apply to such officer of the police; and provided further that in giving that assistance the Police shall only have and exercise such powers as they are authorised to exercise under the Criminal Code or any other law.

(3) Notwithstanding the provisions of any law, public officers assigned duties at the Office of the Special Inquiring Magistrate as provided in subsection (1) and officers of the Police detailed to give assistance to the Special Inquiring Magistrate as provided in subsection (2) shall not during such assignment or while so detailed, without their consent or that of the Special Inquiring Magistrate be transferred or detailed for other duties.

Reports to Special Inquiring Magistrate

11. 569E(1) Any person may on oath make a report to a Special Inquiring Magistrate in regard to any corrupt practice alleged to have been committed by a public officer:

Provided that a Special Inquiring Magistrate may initiate investigations on his own initiative.

(2) The report referred to in subsection (1) of this section shall contain an indication of all facts which in the opinion of the person making the report may be relevant to the investigation to be carried out by the Special Inquiring Magistrate.

(3) Upon the receipt of any report as is mentioned in the preceding subsections of this section the Special Inquiring Magistrate shall hold an investigation into the alleged corrupt practice and for such purpose he shall have all powers as are conferred upon a Magistrate of the Inferior Courts in sections 546 to 569 of the Criminal Code, to summon witnesses and to administer the oath and to request the assistance of the Police in the conduct of investigations into alleged or suspected corrupt practice under this Act and the Police shall give the assistance requested as provided in subsection (2) of Section 5:

Provided that a Special Inquiring Magistrate shall hear all witnesses in person and shall not delegate the hearing of witnesses to any expert or police officer:

Provided further that inquiries relating to the *in genere* and *reperti* shall not be conducted by the Special Inquiring Magistrate.

(4) Any person summoned by the Special Inquiring Magistrate as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses, without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by the Special Inquiring Magistrate, shall be liable, on conviction, to a fine (*multa*) not exceeding two thousand euro (€2,000) or to imprisonment not exceeding three months, or to both such fine and imprisonment:

Provided that without prejudice to the generality of the provisions of subsection (3) of this section no person giving evidence before the Special Inquiring Magistrate may be compelled to answer any question which tends to expose him to any criminal prosecution, and every such person shall, in respect of any evidence given before the Special Inquiring Magistrate, be entitled to the same privileges to which a witness giving evidence before a court of law is entitled, including the assistance of a lawyer of his trust.

(5) Where the Special Inquiring Magistrate is of the opinion that the examination of any witness or any other process of the investigation by an authority outside Malta is necessary, the Special Inquiring Magistrate may draw up a letter of request and through

the registrar transmit it to the said authority outside Malta together with the interrogatories or a description of the action to be carried out by the authority outside Malta.

(6) Proceedings in respect of any offence against this section shall be conducted at the instance of the Special Investigating Magistrate by the Police before the Court of Magistrates Malta or Gozo as the case may be.

Procés-verbal

12. 569F(1) The Special Inquiring Magistrate shall draw up a *procés-verbal* of the investigation which shall include his conclusions thereon including, where any, the offences that may be laid against any person and a report of the proof in support thereof.

(2) The *procés-verbal* shall be accompanied by a transcript of all evidence collected by the Special Inquiring Magistrate as well as any document relating to the investigation carried out by him.

(3) As soon as the *procés-verbal* is concluded it shall be signed by the Special Inquiring Magistrate and a copy thereof shall be transmitted together with a copy of the documents referred to in subsection (2) of this section to the Speaker of the House of Representatives.

(4) Where the Special Inquiring Magistrate concludes in the *procés-verbal* that there is enough evidence to support a prosecution for corrupt practices, the Speaker of the House of Representatives shall cause the copy of the said *procés-verbal* to be laid on the table of the House, otherwise the said copy shall not be so laid and shall remain secret.

Prosecutions

13. 569G(1) Where the Special Inquiring Magistrate concludes in the *procés-verbal* that there is enough evidence to support a prosecution for a corrupt practice he shall as soon as may be draw up the charges and transmit the same to the Commissioner of Police ordering him to summon the person charged before the competent court to answer the said charges or to arrest the said person and produce him before the said court under arrest to answer to such charges.

(2) Prosecutions for corrupt practices shall be conducted by the Special Inquiring Magistrate both in respect of cases before the Court of Magistrate either as a Court of Criminal Inquiry or as a Court of Criminal Jurisdiction as well as before the Criminal Court and where an appeal lies in any such case before the Court of Criminal Appeal also before the said Court of Criminal Appeal.

(3) Subject to the provisions of subsection (4), the provisions of Book Second of the Criminal Code shall apply to proceedings being conducted by the Special Inquiring Magistrate as if reference therein to the Police or the Attorney General were a reference to the Special Inquiring Magistrate as the case may require.

(4) Section 541 of the Criminal Code shall not apply to the Special Inquiring Magistrate, and section 433 shall apply to the Special Inquiring Magistrate as if reference in subsections (1) and (2) thereof to the Attorney General were a reference to the Special Inquiring Magistrate acting with the concurrence of the Attorney General.

(5) Where any report is lodged with the Police concerning any corrupt practice they shall transmit the same to the Special Inquiring Magistrate.

(6) Where in any Inquiry being conducted by the Police evidence of any corrupt practice is discovered they shall make a report thereof to the Special Inquiring Magistrate and the Investigations therein shall be continued by him.

(7) Where in any Inquiry referred to in Title II of Part II of Book Second of the Code there is evidence of any corrupt practice, the copy of the *procès-verbal* relating to such inquiry including all documents attached or included therewith shall in each case also be transmitted to the Special Inquiring Magistrate:

Provided that where the *procès-verbal* is drawn up after an inquiry commenced after a report by the Special Inquiring Magistrate the original *procès-verbal* shall be transmitted to the Special Inquiring Magistrate.

Report on conclusion of prosecutions

14. 569H(1) At the end of any prosecution conducted by the Special Inquiring Magistrate, the said Magistrate shall send a report on the case, to the Speaker of the House of Representatives, accompanied by a copy of the charges and of any judgements or decrees where any.

(2) The Speaker shall cause such report and accompanying documents to be laid on the Table of the House.

Secrecy

15. 569I. Proceedings by or before a Special Inquiring Magistrate shall be secret and shall not, until a copy of *procès-verbal* thereon is laid on the table of the House of

Representatives as provided in section 6 of this Act, be disclosed except for the purpose of the investigation being carried out by the Special Inquiring Magistrate.

Privileged communications

16. 569J. No action shall lie at law in connection with the giving in good faith of any information to a Special Inquiring Magistrate for the purpose of this Act.

The President of Malta may grant exemption from criminal proceedings

17. 569K(1) Without prejudice to the powers conferred by section 93 of the Constitution, subject to the provisions of this section, the President of Malta may, if acting in accordance with his own deliberate judgement he is satisfied of the advisability so to do, issue a certificate in writing exempting any person mentioned therein from any criminal proceedings on condition that such person gives evidence according to law of all the facts known to him relating to any corrupt practice or any offence connected therewith before the Special Inquiring Magistrate and, or any court of criminal jurisdiction, and on the issue of such certificate and the giving evidence in accordance therewith by the person to whom it refers, no proceedings before a court of criminal jurisdiction may be taken or continued against him in connection with such corrupt practice or any offence connected therewith.

(2) The President of Malta may grant the certificate mentioned in subsection (1) of this section only after a request to that effect by the Special Inquiring Magistrate.

(3) The request by the Special Inquiring Magistrate shall be made in writing and shall contain all the pertinent details as may be requested by the President of Malta, and such a request shall be sent to the President of Malta in confidence and such request by the Special Inquiring Magistrate shall not be deemed to be a breach of the provisions of section 10 of this Act.

(4) The certificate issued by the President of Malta under the provisions of this section shall –

(a) when the evidence is first to be given before the Special Inquiring Magistrate be kept in the records of the inquiry, and be attached to the relative *procès-verbal*;

(b) when the evidence is first to be given before a court of criminal jurisdiction, be exhibited in court by a representative of the President of Malta.

(5) A copy of any certificate issued by the President of Malta under the provisions of this section and kept in the records of an inquiry shall be produced at the request of the witness in any proceedings against him before a court of criminal jurisdiction.

(6) The President of Malta may issue a certificate under the provisions of this section notwithstanding any opposition by the witness.

(7) For the purpose of this section "court of criminal jurisdiction" includes any court-martial under the Malta Armed Forces Act.

Unlawful influence

18. 569L. Any person who for profit or reward offers his services to any other person in order to procure, or otherwise pretends that he can procure, the favours of any public officer in a manner that would constitute a corrupt practice shall for the mere offer or pretence, without prejudice to any other punishment to which he may be liable under any other law, be guilty of an offence against this Act and shall on conviction be liable to imprisonment for a term between three months to a year.

PART IV

This Part amends the Criminal Code to provide for the creation of new offences against the administration of justice

Amendments to the Criminal Code

19.

'Obstruction of justice

111A. (1) Everyone convicted of offering or promising money or any other profit to a person called upon to give evidence before a judicial authority or to a person called upon to give a statement to a defender in the course of an investigative activity, or to a person called upon to assist as a judicial expert, technical adviser or interpreter, in order for that person to commit any of the offences referred to in Sub Title III of Title III of Part II of Book First of the Criminal Code, shall be guilty of the crime of obstruction of justice.

(2) The penalty for breach of subsection (1) where the offer or promise is not accepted is of imprisonment of between two and five years;

(3) The penalty for infringement of subsection (1) when the offer or promise is accepted but one of the offences referred to in the articles is not committed, shall be of between three and seven years imprisonment;

(4) Anyone who uses threats or violence in order to lead to the violation of sub article (1) shall bear the applicable penalty increased by one or two degrees depending on the gravity of the threat or violence.

(5) The court shall, in respect of anyone convicted of an offence under this Article, together with the sentencing pursuant to the preceding subparagraphs, order and impose the perpetual general interdiction in accordance with Article 10 of the Criminal Code

About who forces or causes someone not to declare something or to declare the false to the judicial authority.

111B. Save if another more serious offence is committed by the same conduct, anyone with violence or threats, or with an offer or promise of money or any other useful kind, coerces or causes someone else not to declare something or declare something false before a judicial authority in criminal proceedings when that person has the right to remain silent and, or the right not to incriminate

oneself, is guilty of an offence and when convicted may be liable to not less than two years imprisonment and not more than six years of imprisonment.

This Part amends the Criminal Code to provide for the creation of the offence of wilful dereliction of duties by a public officer or servant.

Amendments to the Criminal Code

20

'Refusal or omission to perform a duty by a public official

138A. (1) Any official or public servant who unreasonably refuses or fails to perform a duty relating to his office or employment, which is a duty which for reasons of justice or public security, or of public order, shall be carried out without delay, shall bear the penalty laid down in subsection (2).

(2) The penalty for conviction of an infringement of sub article (1) is one of imprisonment of not less than six months and not more than two years.

138B. (1) In cases in which Article 138A does not apply and without prejudice to sub-article (2), an official or public servant who, after being notified of a written request by anyone having an interest, does not perform the duty relating to his office or employment within thirty days of that notification, shall bear the penalty laid down in sub-article (3).

(2) An official or public servant who reasonably justifies his delay exceeding the thirty days referred to in subsection (1) shall not be guilty of an infringement of this article.

(3) An official or public servant who is found guilty of infringement of this article shall be liable to a term of imprisonment not exceeding one year or a fine not exceeding one thousand euro (EUR 1,000) or that imprisonment and fine together.'

PART VI

This Part amends the Criminal Code to provide for the creation of a new crime against public authority.

Amendments to the Criminal Code

21

“Illegal use by officials or public servants of non-official or authorised electronic resources”

118A. (1) Any official or public servant who makes use of unauthorised or non-official electronic resources in accordance with the law for the commission of acts for the pursuit of, or in the exercise of, the public authority vested in him or by the exercise thereof, so that he

(a) maliciously receives either for him personally or for third parties, by such commission or by any act, any unjust monetary advantage or profit to the prejudice or harm of others; or

(b) breaches his duty to safeguard the pecuniary interests of the public, thereby causing harm or financial loss to the public

is guilty of an offence and in the event of guilt a penalty of six months to two years imprisonment shall be imposed;

(2) The provisions of Article 150 of the Code shall apply in the event of guilt under the preceding subparagraph;

(3) For the purposes of this article “*non-official or unauthorised electronic resources*” includes any means, instrument or electronic system by means of which electronic communication or telecommunications may be made which is not authorised by any public authority for the performance of any public authority or public employment by any official or public servant;

PART VII

This Part amends the Criminal Code to provide for the creation of a new offence against organised crime by providing for criminal association of a mafia-like character.

Amendments to the Criminal Code

22.

Article 83B: Partnership, promotion, leadership of a mafia-like criminal association.

- (1) Anyone belonging to a mafia-like criminal association composed of three or more persons shall be liable, when convicted, to a term of imprisonment of between ten and fifteen years;
- (2) Anyone who promotes, directs, organises a mafia-like criminal association is liable, for that fact alone, to imprisonment from twelve to eighteen years;
- (3) In cases where the criminal association of a mafia-like character is armed by regular weapons as defined in Article 64 of this Code or explosive material, the penalty of punishment in the event of guilt provided for in subparagraph (1) of this Article from twelve to twenty years, and from fifteen to twenty-five years in the case provided for under sub Article (2) of this Article;
- (4) A criminal association is mafia-style when its members exercise the power to intimidate through membership ties, the state of control, and a culture of 'secrecy' which it fosters, to commit an offence, to acquire direct or indirect control over economic activities undertaken by them, to exercise direct or indirect control over economic activities, licencing, authorisations, public procurement or service contracts, or to obtain a profit or advantage for themselves or others, or to prevent or hinder the free exercise of voting rights, or to obtain votes for them or others in elections;
- (5) The association referred to in subparagraph (1) of this Article is deemed to be armed when its members have direct or indirect access to regular weapons as defined in Article 64 of this Code or explosive material for the purpose or purposes of the said association;

- (6) Membership of such an association is itself a punishable offence even if a direct link cannot be established between a mafia person and the execution of any offence committed by its members on behalf of the association.
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PART VIII

This Part amends the Prevention of Money Laundering Act in order to provide for Unexplained Wealth Orders.

Immediately after Part II, add a new Part III as follows:

PART III

Unexplained Wealth Orders

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

(2) An application for an order must—

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

(b) specify the person whom the Attorney General thinks holds the property (“the respondent”). The person specified may include a person outside Malta;

24. An unexplained wealth order is an order requiring the respondent to provide a statement—

(a) setting out the nature and extent of the respondent’s interest in the property in respect of which the order is made,

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

(c) where the property is held by the trustees of a settlement, setting out such details of the settlement as may be specified in the order, and

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

25. The order must specify—

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

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

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

26. The order may, in connection with requiring the respondent to provide the statement mentioned in subsection (3), also require the respondent to produce documents of a kind specified or described in the order;

27. The respondent must comply with the requirements imposed by an unexplained wealth order within whatever period the court may specify. The period imposed by the Court shall reflect the urgent, swift and expeditious nature of the need to have the court arrive at its decision as to whether or not the freezing of the property mentioned in the order is to take effect;

Requirements for making of unexplained wealth order

28. (1) These are the requirements for the making of an unexplained wealth order in respect of any property

(2) The Criminal Court must be satisfied that there is reasonable cause to believe that:-

- (a) the respondent holds the property, and
- (b) the value of the property is greater than €100,000.

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

(4) The Criminal Court must be satisfied that—

- (b) the respondent is a politically exposed person, or
- (c) there are reasonable grounds for suspecting that—
 - (i) the respondent is, or has been, involved in serious crime (whether in Malta or elsewhere), or
 - (ii) a person connected with the respondent is, or has been, so involved.

(5) For the purposes of this article, a person is involved in serious crime if the person would be so involved in any criminal activity which on conviction carries a minimum punishment of nine years imprisonment;

(6) It does not matter for the purposes of subsection (2) (a)—

(a) whether or not there are other persons who also hold the property;

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

(7) For the purposes of subsection (3):

(a) regard is to be had to any mortgage, charge or other kind of security that it is reasonable to assume was or may have been available to the respondent for the purposes of obtaining the property;

(b) it is to be assumed that the respondent obtained the property for a price equivalent to its market value;

(c) income is "lawfully obtained" if it is obtained lawfully under the laws of the country from where the income arises;

(d) "known" sources of the respondent's income are the sources of income (whether arising from employment, assets or otherwise) that are reasonably ascertainable from available information at the time of the making of the application for the order;

(e) where the property is an interest in other property comprised in a settlement, the reference to the respondent obtaining the property is to be taken as if it were a reference to the respondent obtaining direct ownership of such share in the settled property as relates to, or is fairly represented by, that interest.

29. (1) In subsection (4)(a) of article 7, "*politically exposed person*" means a person who is—

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

(b) a family member of a person within paragraph (a),

(c) known to be a close associate of a person within that paragraph, or

(d) otherwise connected with a person within that paragraph;

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

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

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

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

Effect of order: cases of non-compliance

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

For the purposes of subsection (1) —

(a) a respondent who purports to comply with the requirements imposed by an unexplained wealth order is not to be taken to have failed to comply with the order;

(b) where an unexplained wealth order imposes more than one requirement on the respondent, the respondent is to be taken to have failed to comply with the requirements imposed by the order unless each of the requirements is complied with or is purported to be complied with.

Effect of order: cases of compliance or purported compliance

32 (1) Where, before the end of the response period imposed by the court, the respondent complies, or purports to comply, with the requirements imposed by an unexplained wealth order in respect of any property in relation to which the order is made, the Attorney General must determine what enforcement or investigatory proceedings, if any, are considered to be taken in relation to the property in view of any interim freezing order in place over that property;

(2) The determination by the mentioned under subsection (1) of this article must be made within a maximum period of 30 days starting with the day of compliance;

(3) If the determination under subsection (2) is that no further enforcement or investigatory proceedings ought to be taken in relation to the property, the Attorney General must notify the Criminal Court of that fact as soon as reasonably practicable (and in any event before the end of the 30 day period mentioned in subsection (2));

(4) If there is no interim freezing order in effect in relation to the property, the Attorney General may (at any time) determine what, if any, enforcement or investigatory proceedings it considers ought to be taken in relation to the property;

(5) A determination under subsection (3) of this article to take no further enforcement or investigatory proceedings in relation to any property does not prevent such proceedings being taken subsequently (whether as a result of new information or otherwise) in relation to the property;

(6) For the purposes of this article—

- (a) the respondent complies with the requirements imposed by an unexplained wealth order only if all of the requirements are complied with,
- (b) references to the day of compliance are to the day on which the requirements imposed by the order are complied with (or, if the requirements are complied with over more than one day, the last of those days), and
- (c) where an order requires the sending of information in writing to, or the production of documents at, an address specified in the order, compliance with the order (so far as relating to that requirement) occurs when the written information is received, or the documents are produced, at that address,

and in paragraphs (a) to (c) references to compliance include purported compliance.

Offence

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

- (a) makes a statement that the person knows to be false or misleading in a material particular, or
- (b) recklessly makes a statement that is false or misleading in a material particular.

(2) A person guilty of an offence under this article is liable, on conviction, to imprisonment for a term not exceeding 2 years, or to a fine (multa) of not more than €100,000, or to both;

Statements

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

Holding of property: trusts and company arrangements etc

34 (1) The cases in which a person is to be taken to “hold” property include those where—

- (a) he has effective control over the property;
- (b) he is the trustee of a settlement in which the property is comprised;
- (c) is a beneficiary (whether actual or potential) in relation to such a settlement.

(2) A person is to be taken to have “effective control” over property if, from all the circumstances, it is reasonable to conclude that the person—

- (a) exercises,
- (b) is able to exercise, or
- (c) is entitled to acquire, direct or indirect control over the property.

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

Supplementary

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

36. Interim freezing orders

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

- (2) An interim freezing order is an order that prohibits the respondent to the unexplained wealth order, and any other person with an interest in the property, from in any way dealing with the property;
- (3) An interim freezing order:-
 - (a) may be made only on the application of the Attorney General;
 - (b) must be made in the same proceedings as those in which the unexplained wealth order is made, and
 - (c) may be combined in one document with the unexplained wealth order.

Variation and discharge of interim freezing order

37. (1) The Criminal Court may at any time vary or discharge an interim freezing order.
- (2) The Criminal Court must discharge an interim freezing order, so far as it has effect in relation to any property, in a case where the respondent complies, or purports to comply, with the requirements imposed by an unexplained wealth order before the end of the response period, it is the period of 48 hours beginning with the day after the day with which the 30 day period mentioned in article 10(2) above;
- (3) Before exercising power under this article to vary or discharge an interim freezing order, the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.

Exclusions

38. (1) The power to vary an interim freezing order includes (amongst other things) power to make exclusions as follows—
 - (a) power to exclude property from the order, and
 - (b) power, otherwise than by excluding property from the order, to make exclusions from the prohibition on dealing with the property to which the order applies.
- (2) Exclusions from the prohibition on dealing with the property to which the order applies (other than exclusions of property from the order) may also be made when the order is made.

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

- (a) to meet the person's reasonable living expenses, or
- (b) to carry on any trade, business, profession or occupation.

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

(5) Where the court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Act, it must ensure that the exclusion—

- (a) is limited to reasonable legal expenses that the person has reasonably incurred or reasonably incurs,
- (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion

(6) Before exercising a power conferred by this section, the court must (as well as giving the parties to any proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.

Receivers in connection with interim freezing orders

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

(2) An application under subsection (1) may be made at the same time as the application for the interim freezing order or at any time afterwards.

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

(4) In his application the Attorney General must nominate a suitably qualified person for appointment as a receiver.

Powers of receivers

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

(2) The court may by order authorise or require the receiver to exercise any of the powers delineated by the same court in relation to any property in respect of which the receiver is appointed and to take any other steps the court thinks appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property in order to manage it);

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

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

Supervision of receiver and variations

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

(a) the receiver;

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

© a person affected by an action taken by the receiver;

(d) a person who may be affected by an action proposed to be taken by the receiver.

(2) Before it gives directions under subsection (1) the court must give an opportunity to be heard to—

(a) the receiver;

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

(c) a person who may be interested in the application under subsection (1).

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

Compensation

42. (1) Where an interim freezing order in respect of any property is discharged, the person to whom the property belongs may make an application to the Criminal Court for the payment of compensation;
- (2) The application must be made within the period of three months beginning with the discharge of the interim freezing order.
- (3) The court may order compensation to be paid to the applicant only if satisfied that
- (a) the applicant has suffered loss as a result of the making of the interim freezing order,
 - (b) there has been a serious default on the part of the Attorney General who had applied for the order, and
 - (c) the order would not have been made had the default not occurred.
- (4) Where the court orders the payment of compensation—
- a) the compensation is payable by the Attorney General, and
 - b) the amount of compensation to be paid is the amount that the court thinks reasonable, having regard to the loss suffered and any other relevant circumstances;

Enforcement abroad

43. (1) If the Criminal Court makes an unexplained wealth order in respect of any property, and
- (a) it appears necessary to the Attorney General for the purposes of avoiding the risk of any recovery order that might subsequently be obtained being frustrated, and
 - (b) the Attorney General believes that the property is in a country outside Malta (the receiving country)

He may send a request for assistance in relation to the property to the Minister of Foreign Affairs with a view to it being forwarded under this article;

- (2) The Minister of Foreign Affairs is obliged to forward the request for assistance to the government of the receiving country forthwith;

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

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

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

Enforcement abroad: receiver

44 (1) If an interim freezing order has effect in relation to property, and the receiver appointed under article 18 in respect of the property believes that it is in a country outside Malta (the receiving country), the receiver may send a request for assistance in relation to the property to the Minister of Foreign Affairs with a view to it being forwarded under this article.

(2) The Minister of Foreign Affairs must immediately forward the request for assistance to the government of the receiving country.

(3) A request for assistance under this section is a request to the government of the receiving country—

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

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

PART IX

This Part amends the Criminal Code to provide for the creation of a new offence for abuse of office.

Amendments to the Criminal Code.

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

3. "127A. Abuse of Public Authority

"(1) "Unless the following constitute a more serious offence, any public officer or servant who, in the exercise of his functions or during the carrying out of any service, breaches any specific regulation of conduct which is explicitly stipulated by law or of any act having the force of law, which law or act do not allow for any discretion in the carrying out of that function or service:

(a) fails to abstain wherever either he or a relative of his has any conflict of interest;

(b) maliciously receives either for him personally or for third parties, by such commission or by any act, any unjust monetary advantage or profit to the prejudice or harm of others;

or

(c) abuses of the trust placed upon him by breaching, albeit by negligence, in his duty to safeguard the pecuniary interests of the public, thereby causing harm or financial loss to the public

when convicted, is subject to a term of imprisonment, in the case of (a) , of one year to two years and in the case of (b) and (c) between two and five years;

(2) For the purposes of paragraph (a) of subarticle (1), the words "relative of his" includes: his grandparents, his parents, his children and his cousins; the husband or wife in the case of a married couple according to the Marriage Act; another person in the case of cohabitation according to the Cohabitation Act; or his partner in the case of a Civil Union according to the Civil Unions Act

PART X

This Part amends the Constitution of Malta to give better tools to the Police when investigating major crime

Addition of new article 34(3)(c) to the principal law.

46. The following new subarticle article (c) shall be added after article 34(3)(b) of the principal law:

“Article 34(3)(c)

The maximum period of forty eight hours mentioned in the previous subsection of this Article shall be deemed to be not more than seventy two hours in the case of a person detained or arrested on reasonable suspicion of his having committed, or about to commit, a criminal offence under article 211 of the Criminal Code, the offences under Sub Title IV A of Title IX of Part II of the Criminal Code, the offences under Title I and Title I *bis* of Part II of the Criminal Code and those under articles 112-121E, 127A of the Criminal Code, the offence of trafficking of drugs or medicine under Chapters 31 and 101 of the Laws of Malta and the offences under Chapter 373 of the Laws of Malta.

Provided that on the expiration of the forty eight hours detention or arrest, the Police Commissioner, by sworn declaration in front of the Inquiring Magistrate, explains in detail the reason for requesting the period of arrest or detention to be extended unto seventy two hours and the Inquiring Magistrate consents.

In no case and under no circumstances shall the arrest or detention continue beyond seventy two hours.”

This Part amends the Constitution of Malta to declare and recognise freedom of the media as one of the pillars of good governance

Amendment to Articles 20A and 21 of the principal law and addition of new Article 22 as follows:

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

“(1) The State recognises media freedom as an essential pillar of democracy and its pre eminent role in a State governed by the rule of law and is duty bound to promote its independence and safeguard media pluralism. The State has a positive obligation to protect and promote media freedom by providing an enabling environment for journalism, journalists and other media actors.

(2) The State shall promote broad participation in public debate in matters of public interest and shall ensure that journalists, other media actors and members of the public are not discouraged, including for fear of sanctions, retribution or other form of retaliation, from voicing their opinions on issues of public interest or from expressing critical value judgments even if the truth cannot be proved.

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

(4) The State shall facilitate in a timely manner the access to and provision of accurate and reliable information to journalists and other media actors for its use in accordance with the ethics of journalism and the principle of good faith.

(5) Journalists shall not be obliged to reveal the identity of their source and shall be entitled to the protection of their sources.

(6) The State shall protect journalists from strategic lawsuits against public participation (SLAPP) actions instituted in courts outside Malta or in Malta and

from threats of strategic lawsuits against public participation whether threatened to be instituted in courts outside Malta or in Malta.

Amendments to Article 41 in the principal law:

48. Article 41 shall be amended as follows:

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

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

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

(3) Everyone's right to free and independent journalism shall be protected. Without prejudice to the preceding sub-article, in recognition of the role of the press as a pillar of a democratic society there shall be no interference by a public authority in the exercise of the right to freedom of expression by journalists and other media actors, except where there is a grave pressing social need.

(4) Public authorities shall facilitate access to information for the press and shall provide access in a timely manner to accurate and reliable information in accordance with the State's obligations of transparency and accountability.

(5) The protection of journalistic sources including the non-disclosure of information identifying a source by a journalist is guaranteed and may not be subject to other restrictions than those referred to in sub-article 2 of this article, save that the disclosure is only to be deemed necessary in a democratic society where it is convincingly established that:

i. reasonable alternative measures to the disclosure do not exist or have been exhausted by the persons or public authorities that seek the disclosure, and

ii. the legitimate interest in the disclosure clearly outweighs the public interest in the non-disclosure provided that an overriding requirement of the need for disclosure is proved, the circumstances are of a sufficiently vital and serious nature and the necessity of the disclosure is identified as responding to a pressing social need.

(6) Everyone has the right to expect the State to carry out its positive obligation to promote and protect a free and independent press.

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

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

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

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

PART XII

This Part amends the Media and Defamation Act and the Code of Organisation and Civil Procedure to provide for the protection from strategic lawsuits against public participation (“SLAPP suits”)

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

Clause 49 Amendment of Article 5(4) of the Media and Defamation Act

Article 5(4) shall be amended to read:

“(4) In determining whether it was reasonable for the defendant to believe that publishing the statement complained of was in the public interest, the Court must make such allowance for:

- (a) editorial judgement; and
- (b) participation in public debates on matters of public interest without fear of legal action.”

Clause 50 Amendment of Article 10 of the Media and Defamation Act

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

“(4) The Court shall, at the preliminary hearing or at any time before final determination of the claim, after hearing the parties, decide of its own motion or upon the demand by the defendant to dismiss the claim where the court considers that the claim is likely to have a chilling effect on public participation in debate on matters of public interest.”

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

Clause 51 Amendment of Article 827(1)(c) of the Code of Organisation and Civil Procedure

Article 827 (1)(c) shall be amended to read as follows:

"(c) if the judgement contains any disposition contrary to the public policy or to the internal public law of Malta;

For the purposes of this sub-article, a judgement delivered on a matter of alleged defamation or libel or slander or tort or quasi-tort arising out of a publication as defined in the Media and Defamation Act (Chap. 579) against a person or entity normally resident or domiciled in or operating within Malta shall be deemed to be contrary to the public policy or to the internal public law of Malta where that judgment is likely to have a chilling effect on public participation in debate on matters of public interest. Failure by the defendant to enter a defence before the foreign court shall not prejudice this rule of public policy.

Clause 52 Amendment to Article 827(2) of the Code of Organisation and Civil Procedure

After the words "For the purposes of this article" insert the words "and without prejudice to the provisions of Article 827 (1) (c)"

Objects and Reasons

This Bill enlists for the first time in the Constitution of Malta the most important duties of the Government of Malta with the aim of strengthening the Rule of Law and to rein in the abuse of power; to ensure that once parliament is dissolved and a caretaker government comes into being, the powers and duties of a caretaker government are limited to ordinary administration and that no extraordinary decisions are taken by the caretaker government which would bind a future Cabinet with measures which cannot be undone and to ensure that the caretaker government does not abuse its position to the detriment of the Opposition so that general elections are conducted in a fair and proper manner; to set up Special Inquiring Magistrates for the purpose of carrying out investigations into corrupt practices and for the initiation of criminal procedures against persons for corrupt practices in such a way as to strengthen in an effective manner the fight against corruption; any act amounting to an obstruction of justice will be declared to be a crime; the promulgation of the crime of wilful dereliction of duties by any public office or servant tasked with duties relating to justice or public order or public security; the use of non-official or authorised electronic devices or resources carried out by officials or public servants with prejudice to public monies or to gain any unjust monetary advantage to be considered a crime against public authority; enunciates the crime of membership in any criminal association with a mafia like character and provides a definition of such a mafia like criminal association; providing the Criminal Court with the power to issue Unexplained Wealth Orders in order to combat more effectively and efficiently the crimes of money laundering and corruption with the aim to end the impunity generated from these crimes; to consider a criminal offence the intentional conduct of that official or public servant who by deliberate abuse of his authority commits acts or omissions with the aim of procuring an advantage for him or for third parties or of causing harm to third parties; to respond to the evolving complexity of criminal investigations in very serious crimes such as wilful homicide, drug trafficking, money laundering genocide, terrorism, sedition and treason by extending the maximum period of arrest or detention from the maximum 48 hours to a maximum 72 hours only, and only after the Inquiring Magistrate consents thereto; to entrench in the Constitution of Malta the fundamental right to media freedom and the consequential positive obligations of the State in favour of free and independent media for the first time in the Constitution of Malta; to protect the press, journalism and other persons from proceedings and claims brought against them and which have a chilling effect, including the effect of censoring, controlling, intimidating or unduly interfering in freedom of expression and in public participation in debate on matters of public interest.

