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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Bernard Grech, M.P., Kap tal-Oppożizzjoni, u moqri għall-Ewwel darba fis-Seduta tal-24 ta' Jannar 2022.

A BILL introduced by the Honourable Bernard Grech, M.P., Leader of the Opposition, and read the First time at the Sitting of the 24th January 2022.

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

AN ACT 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.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

**ABBOZZ ta' LIĠI
msejjah**

ATT biex jimplimenta l-konklużjonijiet u r-rakkomondazzjonijiet ewlenin tal-Bord tal-Inkjestta 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 hieles, 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.

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

ARRANĠAMENT TAL-ATT

Taqsimha I	Emendi għall-Kostituzzjoni ta' Malta sabiex telenka d-dmirijiet tal-Gvern fl-interess tal-ġid komuni
Taqsimha II	Emenda għall-Kostituzzjoni ta' Malta sabiex tipprovdi għad-dmirijiet ta' Gvern interim
Taqsimha III	Emendi għall-Kodiċi Kriminali biex jipprovdi għall-ħolqien tar-reat tal-intralç tal-ġustizzja
Taqsimha IV	Emendi għall-Kodiċi Kriminali biex jipprovdi għall-ħolqien ta' reati minn uffiċjal pubbliku inkarigat bl-infurzar tal-liġi li dolożament jonqos minn dmiru

Taqsimha V	Emenda għall-Kodiċi Kriminali sabiex jipprevedi l-holqien ta' reati godda ta' użu illegali ta' riżorsi elettronici mhux ufficjali minn ufficjali pubblici u impjegati
Taqsimha VI	Emenda għall-Kodiċi Kriminali biex jipprovdi għall-holqien ta' reat gdid kontra l-kriminalità organizzata billi jipprovdi għall-assoċjazzjoni kriminali ta' bixra mafjuża
Taqsimha VII	Emenda għall-Att dwar il- <i>Money Laundering</i> , Kap. 373
Taqsimha VIII	Emenda għall-Kodiċi Kriminali biex jipprovdi għall-holqien ta' reat gdid għal min jabbuża mill-awtorità tal-uffiċċju tiegħu
Taqsimha IX	Emendi għall-Kostituzzjoni ta' Malta biex tipprovdi għodda aħjar lill-Pulizija fl-investigazzjoni ta' delitti gravi
Taqsimha X	Emendi għall-Kostituzzjoni ta' Malta biex tipprovdi għall-ogħla protezzjoni possibbli għad-dritt ta' ġurnaliżmu ħieles, indipendenti u imparzjali bħala wieħed mill-pilastri ewlenin tas-Saltna tad-Dritt
Taqsimha XI	Emendi għall-Att dwar il-Midja u l-Malfama sabiex jipprovdi għall-protezzjoni kontra kawżi strateġici kontra l-partecipazzjoni pubblika ("SLAPP suits")

Titolu fil-qosor. **1.** It-*Titolu fil-qosor ta' dan l-Att huwa l-Att tal-2022 li jemenda diversi liġijiet biex jimplimenta l-konklużjonijiet u r-rakkomandazzjonijiet ewlenin tal-Bord tal-Inkjesta Pubblika dwar l-assassinju ta' Daphne Caruana Galizia.*

TAQSIMA I

Emendi għall-Kostituzzjoni ta' Malta sabiex telenka d-dmirijiet tal-Gvern fl-interess tal-ġid komuni

Emendi għall-Kostituzzjoni ta' Malta. **2.** Id-dispożizzjonijiet ta' din it-Taqsima jemendaw il-Kostituzzjoni ta' Malta u għandhom jinqraw u jinftiehem haġa waħda mal-Kostituzzjoni ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejha "il-Kostituzzjoni".

Żieda ta' artikolu gdid 64B fil-Kostituzzjoni. **3.** Minnufih wara l-artikolu 64A tal-Kostituzzjoni għandu

jizdied l-artikolu ġdid 64B li ġejj:

"Dmirijiet tal-Gvern bhala gwardjan tal-Istat tad-Dritt, kustodju tal-patrimonju tan-nazzjon u promotur tal-benesseri tas-soċjetà.

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

- (a) jaġixxi b'mod legali, speċjalment skont din il-Kostituzzjoni u t-trattati internazzjonali vinkolanti;
- (b) jaġixxi skont il-liġi, u b'kunsiderazzjoni xierqa għad-drittijiet taċ-ċittadini;
- (c) iżommu lura mill-arbitrarjetà;
- (d) josserva l-proċess dovut;
- (e) jaġixxi b'mod raġonevoli, inkluż billi jqis il-prattika tajba stabbilita;
- (f) jipprovdi servizz effiċjenti, effettiv u reattiv;
- (g) jieħu deċiżjonijiet raġonevoli b'mod oġġettiv;
- (h) jonfoq fondi pubbliċi b'attenzjoni u proprjetà;
- (i) jara li ċ-ċittadin jieħu valur għat-taxxi li jhallas;
- (j) jipprovdi servizz miftuħ, aċċessibbli u responsabbli;
- (k) jaġixxi b'mod ġust u proporzjonat, inkluż fit-trattament ta' persuni mingħajr ebda diskriminazzjoni jew preġudizzju mhux xierqa u jiżguraw li ma jeżisti l-ebda kunflitt ta' interess;
- (l) jiżgura li d-deċiżjonijiet u l-azzjonijiet ikunu proporzjonati, xierqa u ġusti."

TAQSIMA II

Emendi għall-Kostituzzjoni ta' Malta sabiex ttiprovdi għad-dmirijiet ta' Gvern interim.

4. Din it-Taqsima temenda il-Kostituzzjoni ta' Malta u għandha tinqara u tinftiehem haġa waħda mal-Kostituzzjoni ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejha "il-Kostituzzjoni".

Emendi għall-Kostituzzjoni ta' Malta.

5. Fil-paragrafu (b) tas-subartikolu (2) tal-artikolu 66 tal-Kostituzzjoni, minflok il-kliem "l-artikoli 77 u 78," għandhom jidhlu l-kliem "l-artikoli 76A, 77 u 78."

Emenda tal-artikolu 66 tal-Kostituzzjoni.

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Żieda ta' artikolu ġdid 76A fil-Kostituzzjoni.

6. Minnufih wara l-artikolu 76 tal-Kostituzzjoni għandu jiżded l-artikolu l-ġdid 76A li ġej:

"Gvern temporanju 76A. (1) Meta l-Parlament jiġi xolt skont l-artikolu 76 ta' din il-Kostituzzjoni, għandu jinħoloq gvern *interim*.

(2) Ma għandha tittiehed l-ebda deċiżjoni li torbot Kabinett ġdid b'mod li tali Kabinett ġdid ma jkun 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 jiehu deċiżjoni bħal din biss jekk ikun fittex bil-miktub u kiseb bil-miktub l-approvazzjoni mingħajr kundizzjonijiet tal-Kap tal-Oppożizzjoni.

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

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

- (a) jagħmel leġiżlazzjoni sussidjarja;
- (b) jdaħħal fis-seħh leġiżlazzjoni;
- (c) jimplimenta inizjattivi politiċi ewlenin;
- (d) jagħmel ħatriet; u
- (e) jidhol 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*."

TAQSIMA III

Emendi għall-Kodiċi Kriminali li jipprovdu għall-ħolqien ta' reat tal-intralċ tal-gustizzja

7. Din it-Taqsima temenda l-Kodiċi Kriminali u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

Emendi għall-Kodiċi Kriminali.

Kap. 9.

8. Minnufih wara l-artikolu 111 tal-Kodiċi għandhom jiżiedu dawn l-artikoli godda li ġejjin:

Żieda ta' artikoli godda mal-Kodiċi.

"Intralċ tal-gustizzja

111A. (1) Iwettaq reat kull min jinstab ħati li offra jew wiegħed flus jew kull xorta ta' utli ieħor lil persuna msejja sabiex tixhed quddiem awtorità ġudizzjarja jew lil persuna msejja sabiex tagħti dikjarazzjoni lil difensur waqt attività investigattiva jew lil persuna msejja biex tassisti bhala 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 għall-ksur tas-subartikolu (1) meta l-offerta jew il-wegħda ma tiġix aċċettata hija ta' prigunerija ta' bejn sentejn u ħames snin;

(3) Il-piena għall-ksur tas-subartikolu (1) meta l-offerta jew il-wegħda tiġi aċċettata imma ma jitwettaqx wieħed mir-reati maħsuba fis-Sub Titlu III tat-Tielet Titlu tat-Tieni Parti tal-Ewwel Ktieb tal-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 ħati ta' reat taħt dan l-Artikolu, flimkien mal-għoti 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. Salv jekk bl-istess aġir ma jitwettaqx reat ieħor aktar gravi, kull min bi vjolenza jew theddid, jew b'offerta jew wegħda ta' flus jew ta' kull xorta ta' utli ieħor, jisforza jew iwassal lil xi 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 hatja ta' reat u meta tinstab hatja tista' tingħata piena li ma tkunx anqas minn sentejn prigunerija u mhux aktar minn sitt snin prigunerija."

TAQSIMA IV

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

Emendi għall-Kodiċi Kriminali. Kap. 9.

9. Din it-Taqsima temenda l-Kodiċi Kriminali u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

Żieda ta' artikoli ġodda fil-Kodiċi.

10. Minnufih wara l-artikolu 138 tal-Kodiċi għandhom jiżdiedu dawn l-artikoli ġodda li ġejjin:

"Rifjut jew ommissjoni li jkun eżegwit dmir minn uffiċjal pubbliku.

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

(2) Il-piena għal min jinstab hati 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 impjieg tiegħu fi żmien tletin jum minn dik in-notifika, jehel 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 jkunx hati ta' ksur ta' dan l-artikolu.

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

TAQSIMA V

Emendi għall-Kodiċi Kriminali sabiex jipprevedi l-ħolqien ta' reati ġodda ta' użu illegali ta' riżorsi elettronici mhux uffiċjali minn uffiċjali pubblici u impjegati

11. Din it-Taqsima temenda l-Kodiċi Kriminali u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

Emendi għall-Kodiċi Kriminali. Kap. 9.

12. Minnufih wara l-artikolu 118 tal-Kodiċi, għandu jiżded dan l-artikolu ġdid li ġej:

Zieda ta' artikolu ġdid 118A fil-Kodiċi.

"Użu illegali ta' riżorsi elettronici mhux uffiċjali minn uffiċjali pubblici u impjegati.

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

(a) intenzjonalment jirċievi għalih personalment jew għal terzi persuni oħra vantaġġ patrimonjali jew monetarju ingust b'mod li b'tali aġir illegali johloq dannu jew ħsara jew preġudizzju għal terzi; jew

(b) jikser id-dmir tiegħu li jħares l-interessi pekunjarji tal-erarju pubbliku u b'hekk johloq dannu jew telf finanzjarju għall-erarju pubbliku,

għandu, wara kundanna, ikun soġġett għal prigunerija għal perjodu minn sitt xhur sa sentejn.

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

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

TAQSIMA VI

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

Emendi għall-Kodiċi Kriminali. Kap. 9

13. Din it-Taqsima temenda l-Kodiċi Kriminali u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

Żieda ta' artikolu ġdid 83B fil-Kodiċi.

14. Minnufih wara l-artikolu 83A tal-Kodiċi għandu jiżdied dan l-artikolu ġdid li ġej:

"Shubija, promozzjoni, tmexxija ta' assoċjazzjoni kriminali ta' bixra mafjuża.

83B. (1) Kull min jagħmel parti minn assoċjazzjoni kriminali ta' bixra mafjuża magħmula minn tliet persuni jew iktar, jeħel, meta jinstab haġi, il-piena ta' prigunerija ta' bejn għaxar snin u hmistax-il sena.

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

(3) F'każ li l-assoċjazzjoni kriminali ta' bixra mafjuża hija armata b'armi regolari kif imfisser fl-artikolu 64 ta' dan il-Kodiċi jew materjal splussiv, il-piena ta' prigunerija f'każ ta' haġija previst mis-subartikolu (1) ta' dan l-artikolu minn tnax-il sena sa għoxrin sena, u minn hmistax-il sena sa hamsa u għoxrin sena fil-każ previst taħt is-subartikolu (2) ta' dan l-artikolu.

(4) Assoċjazzjoni kriminali tkun ta' bixra mafjuża meta l-membri tagħha jużaw is-setgħa tal-intimidazzjoni minn rabtiet ta' shubija, l-istat ta' haġma, 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 jiġi evitat jew jitfixkel l-eżerċizzju liberu tal-vot, jew biex jinkisbu voti għalihom jew għal haddieħor fl-elezzjonijiet.

(5) L-assoċjazzjoni msemmija fis-subartikolu (1) ta' dan l-artikolu hija meqjusa armata meta l-membri tagħha għandhom aċċess dirett jew indirett għall-armi regolari kif imfisser fl-artikolu 64 ta' dan il-Kodiċi jew materjal splussiv biex jintlaħaq l-għan jew għanijiet tal-assoċjazzjoni msemmija.

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

TAQSIMA VII

Emendi għall-Att kontra Money Laundering, Kap 373.

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

Emendi għall-Att kontra *Money Laundering*. Kap. 373.

16. Minnufih wara Taqsima II tal-Att prinċipali għandha tiżdied din it-Taqsima ġdida li ġejja:

Żieda ta' Taqsima III ġdida tal-Att prinċipali.

"TAQSIMA III

Ġid Mhux Spjegat

Ġid mhux spjegat.

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

Ordni ta' ġid mhux spjegat.

45. (1) 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.

- (2) 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.

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

(4) L-intimat irid jikkonforma mar-rekwiziti 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 u rapida tal-htieġa li l-Qorti tasal għad-deċiżjoni tagħha dwar jekk l-iffriżar tal-proprjeta' msemmija fl-ordni għandux jidhol fis-seħh jew le.

Rekwiziti biex isir ordni ta' ġid mhux spjegat.

46. (1) Dawn huma r-rekwiziti għat-tfassil ta' ordni ta' ġid mhux spjegat fir-rigward ta' kwalunkwe proprjeta'.

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

- (a) l-intimat ikun is-sid tal-proprjeta'; u
- (b) il-valur tal-proprjeta' huwa aktar minn mitt elf (€100,000) ewro.

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

(4) Il-Qorti Kriminali għandha tkun sodisfatta li

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

(b) ikun hemm bażi raġonevoli biex wiehed 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 tiġi kkundannata jkollha piena minima ta' disa' snin habs.

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

(a) jekk hemmx jew le persuni oħra li wkoll għandhom il-proprjeta';

(b) jekk il-proprjeta' nkisbitx mill-intimat qabel jew wara d-dhul fis-sehh ta' din it-taqsim.

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

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

(b) għandu jiġi preżunt li l-intimat kiseb il-proprjeta' għal prezz ekwivalenti għall-valur tas-suq tiegħu;

(c) id-dhul huwa "miksub legalment" jekk jinkiseb legalment skont il-ligijiet tal-pajjiż minn fejn joriġina d-dhul;

(d) huma sorsi "magħrufa" ta' dhul daww kollha li ġejjin minn dhul finanzjarju (sew jekk minn impjeg sew jekk le) li jista' jiġi aċċertat b'mod raġonevoli mill-informazzjoni disponibbli fil-mument li ssir it-talba għall-ordni;

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

47. (1) Fis-subartikolu (4)(a) tal-artikolu 46, "persuna politikament esposta" tfisser individwu li -

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

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

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

Persuna politikament esposta.

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

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

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

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

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

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

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

Għall-finijiet tas-subartikolu (1) —

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

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

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

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

(2) Id-determinazzjoni imsemmija fis-subartikolu (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-subartikolu (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-perjodu ta' tletin (30) jum imsemmi fis-subartikolu(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 wieħed, l-aħħar waħda minn dawk il-ġranet); u

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

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

Reat.

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

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

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

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

Dikjarazzjonijiet.

51. Dikjarazzjoni magħmula minn persuna bi twegiba għal rekwiżit impost minn ordni ta' għid mhux ġustifikat ma tistax tintuża bhala evidenza kontra dik il-persuna fi proċedimenti kriminali.

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

52. (1) Il-każijiet li fihom persuna għandha titqies li "żżomm" proprjetà jinkludu dawk fejn -

(a) hija għandha kontroll effettiv fuq il-proprjetà;

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

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

(2) Persuna għandha titqies li għandha "kontroll effettiv" fuq il-proprjetà jekk, 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.

53. Talba dwar għid mhux spjegat tista' ssir mingħajr avviż.

Ordnijiet ta' ffrizar *interim*.

54. (1) Meta l-Qorti Kriminali toħroġ ordni ta' proprjetà mhux spjegata fir-rigward ta' kwalunkwe proprjetà, hija tista' toħroġ 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 tiġi ffrustrata.

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

(3) Ordni ta' ffriżar *interim*:-

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

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

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

Varjazzjoni u rilaxx ta' ordni ta' ffriżar *interim*.

55. (1) Il-Qorti Kriminali tista' fi kwalunkwe hin tvarja jew tirrorilaxxa ordni ta' ffriżar *interim*.

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

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

Esklużjonijiet.

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

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

(b) is-setgħa, hlief 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-
għajxien 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
eskluzjoni sabiex persuna tkun tista' tħallas l-ispejjeż
legali li l-persuna tkun għarrbet, jew li tista' għgħarrab, fir-
rigward ta' proċedimenti skont dan l-Att, hija għandha
tiżgura li l-eskluzjoni -

(a) hija limitata għal spejjeż legali
raġonevoli li l-persuna għarrbet b'mod raġonevoli
jew raġonevolment iġgħarrab;

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

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

Riċevituri b'rabta
ma' ordnijiet ta'
ffriżar *interim*.

57. (1) Meta l-Qorti Kriminali toħroġ ordni ta'
ffriżar *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' ffriżar *interim*.

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

(3) Ir-rikors jista' jsir mingħajr avviż jekk iċ-
ċirkustanzi tal-każ ikunu tali li n-notifika tar-rikors
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 tinħatar
bħala riċevitur.

Setgħat tar-
riċevituri.

58. (1) Jekk il-Qorti Kriminali taħtar riċevitur
skont l-artikolu 57 ta' dan l-Att fuq applikazzjoni mill-
Avukat Ġenerali, il-Qorti tista' tagħxi 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 proprjeta' li fir-rigward tagħha jkun inhatar ir-riċevitur u jieħu kwalunkwe pass ieħor li l-qorti tqis xieraq b'rabta mal-ġestjoni ta' kwalunkwe proprjeta' bħal din (inkluż l-iżgurar tad-detenzjoni, il-kustodja jew il-preservazzjoni tal-proprjeta' sabiex jamministraha);

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

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

Supervizjoni tar-riċevitur u varjazzjonijiet.

59. (1) Kwalunkwe persuna, mill-persuni li ġejjin, tista' fi kwalunkwe ħin titlob lill-Qorti Kriminali għal struzzjonijiet dwar l-eżerċizzju tal-funzjonijiet ta' riċevitur maħtur skont l-artikolu 57:

(a) ir-riċevitur;

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

(c) persuna affettwata minn azzjoni mehuda mir-riċevitur;

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

(2) Qabel ma tagħti struzzjonijiet skont is-subartikolu (1) il-Qorti għandha tagħti l-oppportunità li jinstemgħu —

(a) ir-riċevitur;

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

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

(3) Il-Qorti tista' fi kwalunkwe ħin tibdel jew tirtira l-ħatra ta' riċevitur skont l-artikolu 57.

Kumpens.

60. (1) Meta tinhareg ordni ta' ffrizar *interim* fir-rigward ta' kwalunkwe proprjeta', il-persuna li lilha tappartjeni l-proprjeta' 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 sofra dannu minħabba l-ghoti 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 kenitx 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.

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

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

(b) l-Avukat Ġenerali jemmen li l-proprjeta' tinsab f'pajjiż barra minn Malta (il-pajjiż riċeventi),

huwa jista' jibgħat talba għall-assistenza fir-rigward tal-proprjeta' 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 tittrasferixxi l-proprjeta';

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

Infurzar barra mill-pajjiż: Riċevitur.

62. (1) Jekk ordni ta' ffrizar *interim* ikollha effett fir-rigward tal-proprjeta', u r-riċevitur maħtur skont l-artikolu 57 fir-rigward tal-proprjeta' jemmin li din tinsab f'pajjiż barra minn Malta (il-pajjiż riċeventi), ir-riċevitur jista' jibgħat talba għall-assistenza fir-rigward tal-proprjeta' 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 taht din it-taqsimha hija talba lill-Gvern tal-pajjiż riċeventi:-

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

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

TAQSIMA VIII

Emenda għall-Kodiċi Kriminali biex jipprovdi għall-ħolqien ta' reat ġdid għal min jabbuża mill-awtorità tal-uffiċċju tiegħu

17. Din it-Taqsima temenda l-Kodiċi Kriminali u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

Emendi għall-Kodiċi Kriminali.

Kap. 9.

18. Minnufih wara l-artikolu 127 tal-Kodiċi għandu jiżdied l-artikolu ġdid 127A, li ġej:

Żieda ta' artikolu ġdid 127A fil-Kodiċi.

"Abbuż tal-Awtorità Pubblika.

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

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

(b) intenzjonalment jirċievi għalih personalment jew għal terzi persuni oħra vantaġġ patrimonjali jew monetarju ingust b'mod li b'tali aġir jew ommisssioni illegali johloq dannu jew hsara jew preġudizzju għal terzi; jew

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

jehel, meta jinstab hati, fil-każ taht il-paragrafu (a) il-piena ta' bejn sena u sentejn prigunerija, u fil-każ 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-ġenituri tiegħu; it-tfal u l-kuġini tiegħu; il-mara jew ir-raġel f'każ li jkunu miżżewġin skont l-Att dwar iż-Żwieġ, skont il-każ; persuna oħra li jkun f'koabitazzjoni magħha skont l-Att dwar il-Koabitazzjoni; jew persuna li jkun f'unjoni ċivili magħha skont l-Att dwar l-Unjonijiet Ċivili."

TAQSIMA IX

Emendi għall-Kostituzzjoni ta' Malta biex tipprovdi għodda aħjar lill-Pulizija fl-investigazzjoni ta' delitti gravi

Emendi għall-Kostituzzjoni ta' Malta.

19. Id-dispożizzjonijiet ta' din it-Taqsima jemendaw il-Kostituzzjoni ta' Malta u għandhom jinqraw u jinftiehm u haġa waħda mal-Kostituzzjoni ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejha "il-Kostituzzjoni".

Emenda għall-artikolu 34 tal-Kostituzzjoni.

20. Minnufih wara l-artikolu 34(3) tagħha għandu jizdied is-

subartikolu ġdid (3A) li ġej:

"(3A) Il-perjodu massimu ta' tmienja u erbgħin siegħa msemmi fis-subartikolu preċedenti ta' dan l-artikolu għandu jitqies li ma jkunx aktar minn tnejn u sebgħin 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 IVA tat-Titlu IX tat-Taqsima II, ir-reati skont it-Titolu I u t-Titolu I bis tat-Tieni Parti tal-Kodiċi Kriminali, ir-reati taħt l-artikoli 112-121E, 127A tal-Kodiċi Kriminali, ir-reat ta' traffikar ta' droga jew medicina taħt il-Kap. 31 u Kap. 101 tal-Liġijiet ta' Malta u r-reati taħt il-Kap.373 tal-Liġijiet ta' Malta:

B'dan iżda li fl-iskadenza tat-tmienja u erbgħin 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-perjodu ta' arrest jew detenzjoni jiġi estiż għal tnejn u sebgħin siegħa u jingħata bil-miktub il-kunsens tal-Maġistrat Inkwiranti.

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

TAQSIMA X

Emendi għall-Kostituzzjoni ta' Malta biex ttiprovdi għall-ogħla protezzjoni possibbli għad-dritt ta' ġurnaliżmu hieles, indipendenti u imparzjali bħala wieħed mill-pilastri ewlenin tas-Saltna tad-Dritt.

21. Id-dispożizzjonijiet ta' din it-Taqsima jemendaw il-Kostituzzjoni ta' Malta u għandhom jinqraw u jinftiehm u haġa waħda mal-Kostituzzjoni ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejja "il-Kostituzzjoni".

Emendi għall-Kostituzzjoni ta' Malta.

22. L-artikolu 20A tal-Kostituzzjoni għandu jkun rinumerat bħala artikolu 21 u l-artikolu 21 għandu jkun rinumerat bħala artikolu 23, u minnufih wara l-artikolu 21 kif rinumerat għandu jidhrol dan l-artikolu

Rinumerazzjoni tal-artikoli 20A u 21 tal-Kostituzzjoni u żieda ta' artikolu 22 ġdid.

22 li ġej:

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

(2) L-Istat għandu jippromwovi parteċipazzjoni wiesgħa fid-dibattitu pubbliku fuq kwistjonijiet ta' interess pubbliku u għandu jassigura li ġurnalisti, persuni oħra fil-midja u membri tal-pubbliku ma jkunux skoraggħiti, inkluż mill-biża' ta' sanzjonijiet, retribuzzjoni jew forma oħra ta' ritaljazzjoni, milli jsemmgħu u jesprimu l-opinjoni tagħhom fuq kwistjonijiet ta' interess pubbliku jew milli jesprimu ġudizzji ta' kritika anke jekk il-verità ma tistax tkun pruvata.

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

(4) L-Istat għandu jiffacilita l-aċċess u l-għoti ta' informazzjoni veritiera u kredibbli mogħtija mingħajr ħela ta' żmien lil ġurnalisti u persuni oħra fil-midja għall-użu tagħhom skont l-etika tal-ġurnalizmu u l-prinċipju ta' bona fede.

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

(6) L-Istat għandu jħares b'kull mod lill-ġurnalisti minn kawżi strateġiċi kontra parteċipazzjoni pubblika magħmula fi qrati barra minn Malta u f'Malta (SLAPP) u minn theddid ta' kawżi strateġiċi kontra parteċipazzjoni pubblika sew jekk mhedda li jiġu istitwiti fi qrati barra minn Malta u f'Malta (SLAPP).".

Emendi għall-
artikolu 41 tal-
Kostituzzjoni.

23. L-artikolu 41 tal-Kostituzzjoni għandu jiġi emendat kif ġej:

(i) Subartikoli (1) u (2) għandhom jiġu sostitwiti bis-subartikoli godda li ġejjin:

"(1) Kulhadd għandu d-dritt għal-libertà ta'

espressjoni. Hadd ma għandu jiġi mfixxkel fit-tgawdija tal-libertà tiegħu ta' espressjoni, magħduda libertà li jkollu fehmiet mingħajr indhila, libertà li jirċievi ideat u tagħrif mingħajr indhila, libertà li jikkomunika ideat u tagħrif mingħajr indhila (kemm jekk il-komunikazzjoni tkun lill-pubbliku in ġenerali jew lil xi persuna jew klassi ta' persuni) u libertà minn indhila dwar il-korrispondenza tiegħu. Dawn il-libertajiet huma rikonnoxxuti u għandhom jitgawdew bħala waħda mill-kondizzjonijiet ewlenin għall-progress ta' soċjetà demokratika u għall-iżvilupp ta' kull individwu.

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

(3) Id-dritt ta' kulhadd għal ġurnalizmu hieles u indipendenti għandu jiġi protett. Mingħajr preġudizzju għas-subartikolu preċedenti, b'rikonoxximent tar-rwol tal-istampa bħala pilastru ta' soċjetà demokratika, ma għandu jkun hemm l-ebda ndhila minn awtorità pubblika fl-eżerċizzju tal-libertà ta' espressjoni mill-ġurnalisti u persuni oħra fil-midja, hliet fejn ikun hemm htieġa soċjali gravi u urġenti.

(4) Awtoritajiet pubbliċi għandhom jiffaċilitaw l-aċċess għall-informazzjoni għall-istampa u għandhom jipprovdu informazzjoni veritiera u kredibbli mogħtija mingħajr hela ta' żmien skont l-obbligi ta' trasparenza u kontabilità tal-Istat.

(5) Il-protezzjoni ta' sorsi tal-ġurnalisti inkluż informazzjoni li tista' tidentifika sors ta' ġurnalist hija garantita u ma tistax tiġi restretta hliet bil-kundizzjonijiet imsemmija fis-subartikolu 2 ta' dan l-artikolu, hliet ukoll li l-kxif huwa meqjus neċessarju f'soċjetà demokratika fejn jiġi stabbilit b'mod konvinċenti li:

- i. ma jeżistux miżuri alternattivi raġonevoli

jew li dawn ġew eżawriti mill-persuni jew mill-awtoritajiet pubbliċi li qed ifittxu l-iżvelar tas-sors, u

ii. l-interess legittimu fl-iżvelar b'mod ċar huwa ta' importanza akbar mill-interess pubbliku li ma jseħx dak l-iżvelar u dan kemm-il darba dik il-ħtieġa li teżorbta l-interess pubbliku tiġi pruvata, iċ-ċirkustanzi huma suffiċjalment vitali u ta' natura serja u l-ħtieġa tal-iżvelar hija identifikata bħala meħtieġa minħabba ħtieġa soċjali urgenti.

(6) Kulhadd għandu d-dritt jara li l-Istat iwettaq id-dmirijiet u obbligi pożittivi tiegħu sabiex ikun promoss u żgurat li l-ġurnaliżmu ħieles u indipendenti."

(ii) Subartikolu (3) għandu jiġi rinumerat bħala subartikolu (7) u fis-subartikolu (7), kif rinumerat, il-kliem "wieħed u għoxrin" f'paragrafu (a) tal-proviso għandu jiġi sostitwit bil-kelma "tmintax".

(iii) Subartikolu (4) għandu jiġi rinumerat bħala subartikolu (8).

(iv) Subartikolu (5) għandu jiġi rinumerat bħala subartikolu (9).

TAQSIMA XI

Emendi għall-Att dwar il-Midja u l-Malafama sabiex tippovdi għall-protezzjoni kontra kawżi strateġiċi kontra l-parteciġazzjoni pubblika ("SLAPP" suits)

Emendi għall-Att dwar il-Midja u l-Malafama. Kap. 579.

24. Din it-Taqsima temenda l-Att dwar il-Midja u l-Malafama u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Midja u l-Malafama, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali

Emenda tal-artikolu 5 tal-Att prinċipali.

25. Is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan li ġej:

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

26. Minnufih wara s-subartikolu (3) tiegħu għandu jidhol dan is-subartikolu gdid li geġ:

Emenda tal-artikolu 10 tal-Att prinċipali.

"(4) Il-Qorti għandha, fis-smiġh preliminari jew fi kwalunkwe żmien qabel id-determinazzjoni finali tal-kawża, wara li tisma' lill-partijiet, tiddeċiedi minn jeddha jew fuq talba mressqa mill-konvenut sabiex tiċhad it-talbiet fejn il-Qorti tikkunsidra li l-każ x'aktarx ikollu effett li jbeżża', jrażżan jew jiskoraġġixxi il-parteeċipazzjoni pubblika f'dibattitu fuq kwistjonijiet ta' interess pubbliku."

27. Paragrafu (ċ) tas-subartikolu (1) tal-artikolu 827 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu jigi sostitwit b'dan li geġ:

Emenda konsegwenzjali għall-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12.

"(c) jekk is-sentenza jkollha xi disponiment kuntrarju għall-ordni pubbliku jew kuntrarja għal-liġi pubblika interna ta' Malta:

Għall-finijiet ta' dan is-subartikolu, sentenza mogħtija kontra persuna jew entità normalment residenti jew domiciljata jew li topera gewwa Malta fuq kwistjoni ta' allegat malafama jew libell jew ingurja jew dwar delitt jew kważi delitt naxxenti minn xi pubblikazzjoni kif definita fl-Att dwar Midja u Defamazzjoni (Kap. 579) tkun meqjusa kuntrarja għall-ordni pubbliku jew il-liġi pubblika interna ta' Malta fejn is-sentenza x'aktarx ikollha effett li tbeżża', trażżan jew tiskoraġġixxi l-parteeċipazzjoni pubblika fid-dibattitu fuq kwistjonijiet ta' interess pubbliku. Innuqqas tal-konvenut li jippreżenta difiża għal każ mibdi quddiem qorti barranija ma tippregudikax din ir-regola ta' ordni pubbliku."

28. Fis-subartikolu (2) tal-artikolu 827 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili minnufih wara l-kliem "għall-finijiet ta' dan l-artikolu" għandhom jidhlu l-kliem "u dan mingħajr preġudizzju għall-provvedimenti tal-paragrafu (ċ) tas-subartikolu (1) tal-artikolu 827".

Emenda konsegwenzjali għall-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, Kap. 12.

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma sabiex il-Kostituzzjoni ta' Malta telenka d-dmirijiet l-iktar importanti tal-Gvern ta' Malta u dan sabiex is-Saltna tad-Dritt tissaħħaħ u jigi mliġġem l-abbuż minn min imexxi l-pajjiż; li jigi żgurati 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 jiġi żgurat li l-gvern *interim* ma jabbużax mill-pożizzjoni tiegħu għad-detriment tal-Oppożizzjoni sabiex l-elezzjonijiet generali jsiru b'mod ġust u xieraq; isir reat kull għemil li jsir bil-għan li l-amministrazzjoni tal-ġustizzja tiġi mfixkla; isir 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 ssir ħsara għall-erarju pubbliku jew għall-vantaġġ patrimonjali ingust jibda jitqies bħala reat kontra l-awtorità pubblika; kull sħubija ta' assoċjazzjoni kriminali b'bixra mafjuża tkun meqjusa bħala delitt u għall-ewwel darba qed tingħata tifsira ta' tali assoċjazzjoni mafjuża; biex il-Qorti Kriminali jkollha s-setgħa li toħroġ Ordnijiet tal-Ġid mhux Spjegat sabiex jiġu miġġielda b'mod ħafna 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 jikkommetti aġir jew ommissjoni bil-għan li joħloq vantaġġ għalih jew għal terzi jew biex joħloq preġudizzju jew ħsara jew dannu lil terzi; li tissaħħaħ il-ġlieda kontra l-kriminalità organizzata billi jwieġeb għall-kumplessità li qed tevolvi tal-investigazzjonijiet kriminali f'reati serji ħafna bħal omiċidju volontarju, traffikar ta' droga, tixhim, ħasil tal-flus, ġenoċidju, terroriżmu, kolp ta' Stat u reati kontra s-sigurtà 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 ġurnaliżmu ħieles għandu jkun ankrat fil-Kostituzzjoni ta' Malta u l-obbliġi pożittivi tal-Istat favur ġurnaliżmu ħieles u indipendenti huma mnizzla għall-ewwel darba fil-Kostituzzjoni ta' Malta; biex jipprotegi lill-istampa, il-ġurnaliżmu u persuni oħra minn proċeduri u kawżi miġjuba kontra tagħhom u li għandhom l-effett li jiċċensuraw, irazznu, jintimidaw u jwaqqfu l-libertà tal-espressjoni u l-parteciġazzjoni f'dibattitu dwar kwistjonijiet ta' interess pubbliku.

A BILL
entitled

AN ACT 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	Amendments to the Constitution of Malta to list the duties of Government as the guardian of the Rule of Law
Part II	Amendments to the Constitution of Malta to provide for the duties of a caretaker Government
Part III	Amendments to the Criminal Code to provide for the creation of new offences against the administration of justice
Part IV	Amendment to the Criminal Code to provide for the creation of the offence of wilful dereliction of duties by a public officer or servant
Part V	Amendments to the Criminal Code to provide for the creation of a new crime against public authority

C 6818

Part VI	Amendments to the Criminal Code to provide for the creation of a new offence against organized crime by providing for criminal association of a mafia-like character
Part VII	Amendments to the Prevention of Money Laundering Act in order to provide for Unexplained Wealth Orders
Part VIII	Amendments to the Criminal Code to provide for the creation of a new offence for abuse of office
Part IX	Amendments to the Constitution of Malta to give better tools to the Police when investigating major crime
Part X	Amendments to the Constitution of Malta to declare and recognize freedom of the media as one of the pillars of good governance
Part XI	Amendments to the Media and Defamation Act to provide for the protection from strategic law-suits against public participation ("SLAPP suits")

Short title. **1.** The short title of this Act is the Constitution of Malta and Various Laws (Amendment) Act, 2022.

PART I

Amendments to the Constitution of Malta to list the duties of Government as the guardian of the Rule of Law

Amendments to the Constitution of Malta. **2.** This Part amends the Constitution of Malta and shall be read and construed as one with the Constitution of Malta, hereinafter referred to as "the Constitution".

Addition of new article 64B to the Constitution. **3.** Immediately after article 64A of the Constitution there shall be inserted the following new article 64B :

"Duties of the Government as guardian of the rule of law, custodian of the nation's patrimony and promoter of society's well being. **64B.** It shall be duty of every Government as guardian of the rule of law, custodian of the nation's patrimony and promoter of society's well being, 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

Amendments to the Constitution of Malta to provide for the duties of a caretaker Government

4. This Part amends the Constitution of Malta and shall be read and construed as one with the Constitution of Malta, hereinafter referred to as "the Constitution".

Amendments to the Constitution of Malta.

5. In paragraph (b) of sub-article (2) of article 66 of the Constitution the words "articles 77 and 78," shall be substituted by words "articles 76A, 77 and 78,".

Amendment of article 66 of the Constitution.

6. Immediately after article 76 of the Constitution there shall be added the new article 76A as follows:

Addition of new clause 76A to the Constitution.

"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."

PART III

Amendments to the Criminal Code to provide for the creation of new offences against the administration of justice

Amendments to the Criminal Code. Cap. 9.

7. This Part amends the Criminal Code and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Addition of new articles to the Code.

8. Immediately after article 111 of the Code there shall be added

the following new articles:

"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 sub-article (1) where the offer or promise is not accepted is of imprisonment of between two and five years;

(3) The penalty for infringement of sub-article (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 sub-paragraphs, 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."

C 6822

PART IV

Amendments to 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. Cap. 9.

9. This Part amends the Criminal Code and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Addition of new articles to the Code.

10. Immediately after article 138 of the Code there shall be added the following new articles:

"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 sub-section (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 sub-section (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 V

Amendments to the Criminal Code to provide for the creation of a new crime against public authority.

Amendments to the Criminal Code. Cap. 9.

11. This Part amends the Criminal Code and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Addition of new article 118A to the Code.

12. Immediately after article 118 of the Code there shall be added

the following new article:

"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 VI

Amendments to 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

13. This Part amends the Criminal Code and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Amendments to the Criminal Code. Cap. 9.

14. Immediately after article 83A of the Code there shall be added the following new article:

Addition of new article 83B to the Code.

"Partnership, promotion, leadership of a mafia-like criminal association.

83B. (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.

C 6824

(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 sub-paragraph (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 sub-paragraph (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."

PART VII

Amendments to the Prevention of Money Laundering Act in order to provide for Unexplained Wealth Orders.

Amendments to the Prevention of Money Laundering Act. Cap. 373.

15. This Part amends the Money Laundering Act and shall be read and construed as one with the Money Laundering Act, hereinafter referred to as "the principal Act".

Addition of new Part III to the principal Act.

16. Immediately after Part II of the principal Act there shall be

added new Part III as follows:

"PART III

Unexplained Wealth Orders

Unexplained
Wealth.

44. (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.

Unexplained
Wealth Orders.

45. (1) 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.

(2) 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.

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

(4) 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.

46. (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 -

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

(b) there are reasonable grounds for suspecting that -

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

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

(5) For the purposes of this article, a person is involved in serious crime if 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 sub-section (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 sub-section (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.

Politically exposed person.

47. (1) In sub-section (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.

(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 6828

(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.

48. (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 sub-section (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.

49. (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 sub-section (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 sub-section (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 sub-section (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 sub-section (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.

50. (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.

C 6830

- Statements. 51. (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. 52. (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. 53. An application for an unexplained wealth order may be made without notice.
- Interim freezing orders. 54. (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.

55. (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.

56. (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.

57. (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 sub-section (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.

58. (1) If the Criminal Court appoints a receiver under article 57 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.

59. (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 57:

- (a) the receiver;
- (b) a party to the proceedings for the appointment of the receiver or the interim freezing order concerned;
- (c) a person affected by an action taken by the receiver;
- (d) a person who may be affected by an action proposed to be taken by the receiver.

(2) Before it gives directions under sub-section (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 sub-section (1).

(3) The court may at any time vary or discharge the appointment of a receiver under article 57;

Compensation.

60. (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

C 6834

(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.

61. (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.

62. (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 VIII

Amendments to the Criminal Code to provide for the creation of a new offence for abuse of office.

17. This Part amends the Criminal Code and shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Amendments to the Criminal Code. Cap. 9.

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

Addition of new article 127A to the Code.

"Abuse of Public Authority.

27A. (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 sub-article (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."

C 6836

PART IX

Amendments to the Constitution of Malta to give better tools to the
Police when investigating major crime

Amendments to
the Constitution
of Malta.

19. The provisions of this Part amend the Constitution of Malta and shall be read and construed as one with the Constitution of Malta, hereinafter referred to as "the Constitution".

Amendment of
article 34 of the
Constitution.

20. Immediately after sub-article (3) thereof, there shall be added the new sub-article (3A) as follows:

"(3A) The maximum period of forty-eight hours mentioned in the previous sub-section 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 IVA 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."

PART X

Amendments to the Constitution of Malta to declare and recognise
freedom of the media as one of the pillars of good governance

Amendments to
the Constitution
of Malta.

21. The provisions of this Part amend the Constitution of Malta and shall be read and construed as one with the Constitution of Malta, hereinafter referred to as "the Constitution".

22. 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:

Renumeration of articles 20A and 21 of the Constitution and addition of new article 22.

"22. (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."

23. Article 41 shall be amended as follows:

Amendments to article 41 of the Constitution.

(i) Sub-articles (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) and 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 XI

Amendments to the Media and Defamation Act to provide for the protection from strategic lawsuits against public participation ("SLAPP suits")

24. This Part amends the Media and Defamation Act and shall be read and construed as one with the Media and Defamation Act, hereinafter referred to as "the principal Act".

Amendments to the Media and Defamation Act, Cap. 579.

25. Sub-article (4) thereof shall be substituted by the following:

Amendment of article 5 of the principal Act.

"(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."

26. Immediately after sub-article (3) there shall be added following new sub-article (4):

Amendment of Article 10 of the principal Act.

"(4) The Court shall, at the preliminary hearing or at any

C 6840

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."

Consequential amendment to the Code of Organization and Civil Procedure. Cap. 12.

27. Paragraph (c) of sub-article (1) of article 827 of the Code of Organization and Civil Procedure shall be substituted by the following:

"(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 (Cap. 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."

Consequential amendment to the Code of Organization and Civil Procedure. Cap. 12.

28. In sub-article (2) of article 827 of the Code of Organization and Civil Procedure after the words "For the purposes of this article" there shall be added the words "and without prejudice to the provisions of paragraph (c) of sub-article (1) of article 827".

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; 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 of 72 hours, 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.

VERŻJONI ELETTRONIKA