
Nru. 260

04. 02. 2022

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Edward Zammit Lewis, M.P., Ministru għall-Ġustizzja u l-Governanza, u moqri għall-Ewwel darba fis-Seduta tat-22 ta' Frar 2021.

A BILL introduced by the Honourable Edward Zammit Lewis, M.P., Minister for Justice and Governance, and read the First time at the Sitting of the 22nd February 2021.

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

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

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

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

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2022 li jemenda l-Kodiċi Kriminali u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem imsejjaħ "il-Kodiċi".

Titolu fil-qosor.

Kap. 9.

2. Minnufih wara l-artikolu 251BA tal-Kodiċi għandhom jiżdiedu l-artikoli ġodda li ġejjin:

Żieda ta' artikoli ġodda fil-Kodiċi.

"Segwiment
ċibernetiku.

251BB. (1) Persuna li, bil-ħsieb li tikkaguna ħsara fiżika jew mentali lill-persuna oħra, inkluż li l-persuna l-oħra twegġa' lilha nnifisha jew li tikkaguna apprensioni jew biża' fil-persuna l-oħra għas-sigurtà tagħha jew dik ta' persuna oħra, tagħmel xi att minn dawn li ġejjin għandha tkun ħatja ta' reat kontra dan l-artikolu:

(a) issegwi persuna oħra billi tagħmel kuntatt ma' persuna oħra bl-użu ta' kompjuter jew b'tagħmir elettroniku jew bi kwalunkwe tagħmir ieħor diġitali jew ta' komunikazzjoni;

(b) tikkawża funzjoni li ma tkunx awtorizzata f'kompjuter li huwa l-proprjetà ta' jew li tuża persuna oħra;

(ċ) tintraċċa l-użu tal-internet jew ta' mezz ieħor ta' komunikazzjoni elettronika ta' persuna oħra.

(2) Għall-fini ta' dan l-artikolu, persuna li tkun qiegħda għib ruħha b'mod dubjuż imissha tkun taf li tkun ser tikkaguna ħsara fiżika jew mentali lill-persuna oħra, inkluż li l-persuna l-oħra twegġa' lilha nnifisha jew li tikkaguna apprensioni jew biża' fil-persuna l-oħra għas-sigurtà tagħha jew dik ta' persuna oħra, jekk persuna raġonevoli jkollha fil-pussess tagħha l-istess informazzjoni taħseb li dik l-imġiba tkun ser tikkaguna xi waħda minn dawk il-konsegwenzi fil-persuna l-oħra f'dik l-okkażjoni.

(3) Persuna li tinstab haġja ta' reat taħt dan l-artikolu għandha tehel piena ta' priġunerija għal żmien minn sena (1) sa ħames (5) snin jew multa ta' mhux iżjed minn tletin elf euro (€30,000), jew dik il-multa u priġunerija flimkien.

(4) Id-dispożizzjoni tas-subartikolu (1) ma għandhiex tapplika għal imġiba ta' persuna fil-qadi tad-doveri uffiċjali tagħha għall-iskop:

(a) tal-infurzar tal-liġi kriminali;

(b) tal-amministrazzjoni ta' kwalunkwe Att

(ċ) tal-infurzar ta' liġi li timponi piena pekjunarja;

(d) tal-eżekuzzjoni ta' xi mandat maħruġ minn awtorità kompetenti; jew

(e) tal-protezzjoni u l-għbir tad-dhul pubbliku.

(5) Għandha tikkostitwixxi difiża fil-konfront tal-akkuża tal-akkużat sabiex jipprova li l-iżvolġiment tal-imġiba tiegħu twettaq mingħajr intenzjoni doluża:

(a) fl-andament normali tan-negozju tal-kummerċ, tal-professjoni jew tal-intrapriża legittima; jew

(b) bil-għan li tidhol f'diskussjoni jew komunikazzjoni relatati ma' affarijiet pubbliċi.

(6) Il-piena għandha tiżdied bi grad wieħed meta sseħħ xi waħda jew iżjed miċ-ċirkostanzi li ġejjin:

(a) meta l-ħsara tkun ikkagunata fuq persuna taħt l-età jew fuq persuna li tkun vulnerabbli bħala riżultat tal-kapaċità mentali tagħha; jew

(b) meta r-reat ikun imwettaq minn żewġ persuni jew aktar li jkunu qegħdin jaġixxu flimkien.

Bullying fuq l-internet.

251BĊ. (1) Persuna li, bil-ħsieb li tikkaguna ħsara fiżika jew mentali lill-persuna oħra, inkluż li l-persuna l-oħra twegġa' lilha nnifisha jew li tikkaguna apprensioni jew biża' fil-persuna l-oħra għas-sigurtà tagħha jew dik ta' persuna oħra, tagħmel xi att minn dawn li ġejjin għandha tkun hatja ta' reat kontra dan l-artikolu:

(a) thedded, tintimida jew tuża kliem abbużiv jew offensiv liema kliem ikun immirat lejn il-persuna l-oħra permezz tal-użu tal-kompjuter jew tagħmir elettroniku jew kwalunkwe tagħmir ieħor diġitali jew ta' komunikazzjoni, ikun xi jkun;

(b) twettaq atti abbużivi jew offensivi fil-konfront tal-persuna l-oħra jew twettaq atti abbużivi jew offensivi fil-konfront ta' persuna oħra permezz tal-użu ta' kompjuter jew tagħmir elettroniku jew kwalunkwe tagħmir ieħor diġitali jew ta' komunikazzjoni, ikun xi jkun.

(2) Għall-fini ta' dan l-artikolu, persuna li tkun qiegħda gġib ruhha b'mod dubjuż imissha tkun taf li tkun ser tikkaguna ħsara fiżika jew mentali lill-persuna oħra, inkluż li l-persuna l-oħra twegġa' lilha nnifisha jew li tikkaguna apprensioni jew biża' fil-persuna l-oħra għas-sigurtà tagħha jew dik ta' persuna oħra jekk persuna raġonevoli jkollha fil-pussess tagħha l-istess informazzjoni taħseb li dik l-imġiba tkun ser tikkaguna xi waħda minn dawk il-konsegwenzi fil-persuna l-oħra f'dik l-okkażjoni.

(3) Persuna li tinstab hatja ta' reat taħt dan l-artikolu għandha tehel piena ta' priġunerija għal żmien minn sena (1) sa ħames (5) snin jew multa ta' mhux iżjed minn tletin elf euro (€30,000), jew dik il-multu u priġunerija flimkien.

(4) Il-piena għandha tiżdied bi grad wieħed meta sseħħ xi waħda jew iżjed miċ-ċirkostanzi li ġejjin:

(a) meta l-ħsara tkun ikkaġunata fuq persuna taħt l-età jew persuna li tkun vulnerabbli bħala riżultat tal-kapaċità mentali tagħha; jew

(b) meta r-reat ikun imwettaq minn żewġ persuni jew aktar li jkunu qegħdin jaġixxu flimkien."

3. L-artikolu 251D tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu għandu jiġi mħassar; u

Emenda tal-artikolu 251D tal-Kodiċi.

C 6846

(b) fis-subartikolu (3) tiegħu, il-kliem "l-artikoli 251 sa 251BA, it-tnejn inklużi" għandhom jiġu sostitwiti bil-kliem "l-artikoli 251 sa 251BĊ, it-tnejn inklużi".

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jintroduċu r-reati tas-segwiment ċibernetiku u tal-bullying fuq l-internet bħala reati speċifiċi li jiġu mwettqa fuq iċ-ċyberspazju u li jikkawunaw ħsara lill-vittmi li lejhom ikun indirizzat dan l-abbuż.

**A BILL
entitled**

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

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

1. The short title of this Act is the Criminal Code (Amendment) Act, 2022 and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Short title.

Cap. 9.

2. Immediately after article 251BA of the Code there shall be added the following new articles:

Addition of new articles to the Code.

"Cyber-stalking.

251BB. (1) Any person who with intention to cause physical or mental harm to another person, including self harm or to arouse apprehension or fear in the other person for his or her own safety or that of any other person, does any of the following acts shall be guilty of an offence against this article:

(a) stalks another person by contacting another person through the use of a computer or other electronic communication device or by any other digital or communication device whatsoever;

(b) causes an unauthorised computer function in a computer owned or used by another person;

(c) traces the other person's use of the internet or other electronic communication.

(2) For the purpose of this article, the person whose course of conduct is in question ought to know that it will cause physical or mental harm to another person, including self harm or will arouse apprehension or fear in the other person for his or her own safety or that of any other person, if a reasonable person in possession of the same information would think that the course of conduct would cause any one of the said consequences on the other person on that occasion.

(3) A person found guilty of an offence under this article shall be liable to imprisonment for a term for one (1) year to five (5) years or to a fine (*multa*) not exceeding thirty thousand euro (€30,000), or to both such fine and imprisonment.

(4) The provision of sub-article (1) shall not apply to conduct engaged in by a person performing official duties for the purpose of:

- (a) the enforcement of the criminal law;
- (b) the administration of any Act;
- (c) the enforcement of a law imposing a pecuniary penalty;
- (d) the execution of a warrant issued by a competent authority; or
- (e) the protection and collection of public revenue.

(5) It shall constitute a defence to the charge for the accused to prove that the course of conduct was engaged without malicious intent:

- (a) in the normal course of a lawful business, trade, profession or enterprise; or
- (b) for the purpose of engaging in discussion or communication with respect to public affairs.

(6) The punishment shall be increased by one degree where any one or more of the following circumstances results:

- (a) where the harm is caused to a person under age or a person who is vulnerable as a result of his mental capacity; or
- (b) where the offence is committed by two or more persons acting together.

Cyberbullying. 251BC. (1) Any person who, with intention to cause physical or mental harm to another person, including self harm or to arouse apprehension or fear in the other person for his or her own safety or that of any other person, does any of the following acts shall be guilty of an offence against this article:

(a) threatens, intimidates, or uses abusive or offensive words directed to the person through the use of a computer or other electronic communication device or by any other digital or communication device whatsoever;

(b) performs abusive or offensive acts to the person or directives abusive or offensive acts towards the person through the use of a computer or other electronic communication device or by any other digital or communication device whatsoever.

(2) For the purpose of this article, the person whose course of conduct is in question ought to know that it will cause physical or mental harm to another person, including self harm or will arouse apprehension or fear in the other person for his or her own safety or that of any other person, if a reasonable person in possession of the same information would think that the course of conduct would cause any one of the said consequences on the other person on that occasion.

(3) A person found guilty of an offence under this article shall be liable to imprisonment for a term for one year to five years or to a fine (*multa*) not exceeding thirty thousand euro (€30,000), or to both such fine and imprisonment.

(4) The punishment shall be increased by one degree where any one or more of the following circumstances results:

(a) where the harm is caused to a person under age or a person who is vulnerable as a result of his mental capacity; or

(b) where the offence is committed by two or more persons acting together."

3. Article 251D of the Code shall be amended as follows:

(a) sub-article (2) thereof shall be deleted; and

(b) in sub-article (3) thereof, the words "articles 251 to

Amendment of
article 251D of
the Code.

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251BA, both inclusive" shall be substituted by the words "articles 251 to 251BC, both inclusive".

Objects and Reasons

The objects and reasons of this Bill are to introduce the offence of cyberstalking and cyberbullying as specific offences committed in cyberspace and which cause harm to the victims towards whom such abuse is directed.

VERŻJONI ELETTRONIKA