

MALTA

ATT Nru V tal-2022

ATT maħruġ b'liġi mill-Parlament ta' Malta.

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

ACT No. V of 2022

AN ACT enacted by the Parliament of Malta.

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

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

4 ta' Frar, 2022

ATT Nru V tal-2022

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

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2022 li jemenda l-Kodiċi Kriminali (Emenda Nru 2) u dan l-Att għandu jinqara u jinftiehem ħaga waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor
u bidu fis-sehħ.
Kap. 9.

(2) Dan l-Att għandu jidhol fis-sehħ f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' jstabbilixxi b'avviż fil-Gazzetta, u jistgħu jigu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

2. Fis-subartikolu (2) tal-artikolu 392A tal-Kodiċi, il-kliem "u tordna li l-atti, flimkien ma' kopja tas-sentenza, jiġu mibgħuta lill-Avukat Ġenerali fi żmien sitt ijiem tax-xogħol" għandhom jiġu sostitwiti bil-kliem "u tordna li fi żmien sitt (6) ijiem tax-xogħol l-Avukat Ġenerali jingħata aċċess għal kopja skenjata tal-atti, flimkien ma' aċċess għal kopja skenjata tas-sentenza."

Emenda tal-
artikolu 392A
tal-Kodiċi.

A 62

Emenda tal-artikolu 392B tal-Kodiċi.

3. Il-paragrafu (a) tas-subartikolu (1) tal-artikolu 392B tal-Kodiċi għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(a) tordna li l-Avukat Ġenerali, fi żmien tlett (3) ijiem tax-xogħol, jingħata aċċess bil-mezzi elettronici għal kopja skenjata tal-atti tal-kompilazzjoni, flimkien mal-oġġetti li jkollhom x'jaqsmu mal-każ; u".

Emenda tal-artikolu 401 tal-Kodiċi.

4. L-artikolu 401 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) is-subartikolu (3) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Fil-każ il-wieħed u l-ieħor, il-qorti tordna li l-Avukat Ġenerali, fi żmien tlett (3) ijiem tax-xogħol jingħata aċċess bil-mezzi elettronici għal kopja skenjata tal-atti tal-kompilazzjoni flimkien mal-oġġetti li jkollhom x'jaqsmu mad-delitt."; u

(b) fis-subartikolu (3A) tiegħu l-kliem "Il-qorti għandha wkoll taġġorna l-każ għal data oħra kif ingħad wara li tkun irċeviet lura mingħand l-Avukat Ġenerali l-atti tal-kompilazzjoni u qabel ma tibgħat l-atti lura lill-Avukat Ġenerali skont xi dispożizzjoni ta' dan il-Kodiċi." għandhom jiġu mħassra.

Emenda tal-artikolu 402 tal-Kodiċi.

5. L-artikolu 402 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (4) tiegħu l-kliem "il-qorti tordna li l-atti tal-kompilazzjoni jintbagħtu lill-Avukat Ġenerali fiż-żmien imsemmi fis-subartikolu (3) tal-aħħar artikolu qabel dan" għandhom jiġu sostitwiti bil-kliem "il-qorti tordna li l-Avukat Ġenerali jingħata aċċess bil-mezzi elettronici għal kopja skenjata tal-atti tal-kompilazzjoni fi żmien tlett (3) ijiem tax-xogħol"; u

(b) is-subartikolu (5) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(5) Jekk l-Avukat Ġenerali, meta jingħata aċċess għal kopja skenjata tal-atti bil-mezzi elettronici, ma jkunx irid joqgħod għall-fehma tal-periti dwar il-ġenn tal-imputat, huwa jista', fiż-żmien imsemmi fl-artikolu 432(1), jitlob bil-miktub li tissokta l-kompilazzjoni fuq il-mertu tal-akkuża, inkella jista', b'rikors ipprezentat quddiem il-Qorti Kriminali, iġib il-kwistjoni quddiem dik il-qorti, u jitlob li titmexxa skont l-artikoli 620, 627 u 628:

Iżda l-Avukat Ġenerali għandu jipprezenta dak ir-rikors jekk l-akkużat b'rikors quddiem il-qorti istruttorja

jagħmel talba f'dak is-sens qabel ma l-Avukat Ġenerali jingħata aċċess għall-atti skenjati bil-mezzi elettronici skont l-aħħar subartikolu ta' qabel dan."

6. L-artikolu 405 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 405 tal-Kodiċi.

(a) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"L-Avukat Ġenerali għandu jibgħat it-talba. (2) L-Avukat Ġenerali għandu, għal dan l-iskop, jipprezenta talba tiegħu bil-miktub, u fiha għandu jfisser fuqieq għandu jsir l-eżami jew l-eżami mill-ġdid tax-xhieda.";

(b) is-subartikolu (6) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"Aċċess għall-atti skenjati bil-mezzi elettronici tingħata lill-Avukat Ġenerali. (6) Aċċess bil-mezzi elettronici għax-xhieda skenjata tax-xhieda meħudin taht dan l-artikolu għandu, bla ebda dewmien, jingħata lill-Avukat Ġenerali."; u

(c) is-subartikolu (7) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"Żmien għall-att tal-akkuża meta t-talba għall-eżami mill-ġdid ta' xhieda jew l-eżami ta' xhieda godda ssir mill-imputat. (7) Meta t-talba għas-smiġ tax-xhieda ssir mill-imputat, iż-żmien li fih għandu jiġi pprezentat l-att tal-akkuża jibda jgħodd mill-jum li fih aċċess bil-mezzi elettronici għall-atti skenjati tal-kompilazzjoni, flimkien ma' aċċess bil-mezzi elettronici għax-xhieda skenjata tax-xhieda hekk mismugħa, jingħata mill-ġdid lill-Avukat Ġenerali.".

7. L-artikolu 406 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 406 tal-Kodiċi.

(a) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) L-atti tal-kompilazzjoni għandhom jigu mir-reġistratur mibgħuta lill-Qorti tal-Maġistrati flimkien mar-rikors fuq imsemmi."; u

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Il-Qorti tal-Maġistrati għandha tibgħat lura l-atti, flimkien max-xhieda lill-Qorti Kriminali u tordna li l-Avukat Ġenerali jingħata, fi żmien tlett (3) ijiem, aċċess

bil-mezzi elettronici għax-xhieda skenjata tax-xhieda hekk mismugħa."

Emenda tal-artikolu 408 tal-Kodiċi.

8. Is-subartikolu (1) tal-artikolu 408 tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Matul il-kompilazzjoni u sakemm l-Avukat Ġenerali jingħata aċċess bil-mezzi elettronici għall-atti skenjati, hadd ma jista' jara lill-imputat, meta hu taħt arrest, jekk mhux bil-permess tal-maġistrat li jkun imexxi l-kompilazzjoni."

Emenda tal-artikolu 409A tal-Kodiċi.

9. Is-subartikolu (4) tal-artikolu 409A tal-Kodiċi għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"(4) Meta l-qorti tiddeċiedi li tilqa' r-rikors, l-Avukat Ġenerali għandu, sa mhux aktar tard mill-jum tax-xogħol li jiġi minnufih wara, jingħata aċċess bil-mezzi elettronici għar-rekord tal-proċeduri skenjati, inkluża kopja skenjata tad-deċiżjoni tal-qorti, u l-Avukat Ġenerali jista', fi żmien jumejn (2) tax-xogħol minn meta jirċievi aċċess bil-mezzi elettronici għar-rekord skenjat u jekk ikun tal-fehma li l-arrest u l-kontinwazzjoni tad-detenzjoni tal-persuna hekk meħlusa mill-arrest kienu msejsa fuq xi dispożizzjoni ta' dan il-Kodiċi jew ta' xi liġi oħra, jagħmel rikors quddiem il-Qorti Kriminali sabiex jikseb l-arrest mill-ġdid u l-kontinwazzjoni tad-detenzjoni tal-persuna hekk meħlusa mill-arrest."

Emenda tal-artikolu 412B tal-Kodiċi.

10. Is-subartikolu (3) tal-artikolu 412B tal-Kodiċi għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Meta r-rikors isir għar-rigward ta' proċeduri li jkunu għadhom pendenti quddiem il-Qorti tal-Maġistrati bħala qorti istruttorja qabel ma jkun ġie pprezentat att tal-akkuża jew jekk iż-żmien imsemmi fis-subartikolu (3A) tal-artikolu 401 jkun għadu għaddej, ir-rikors isir quddiem il-Qorti Kriminali u għandhom *mutatis mutandis* japplikaw id-dispożizzjonijiet ta' qabel ta' dan l-artikolu dwar dak ir-rikors."

Sostituzzjoni tal-artikolu 414 tal-Kodiċi.

11. L-artikolu 414 tal-Kodiċi għandu jiġi sostitwit b'dan l-

artikolu ġdid li ġej:

"Talba mill-Pulizija biex jintbagħtu l-atti tal-kawża lill-Avukat Ġenerali.

414. (1) Meta l-kawża titmexxa mill-Pulizija, il-qorti li tagħti s-sentenza għandha, fuq talba bil-miktub magħmula lilha mill-Pulizija, jew mill-parti offiċja notifikata bl-avviż tal-ewwel smiġh jew imdaħħla fil-proċeduri kif provdut fis-subartikoli (4) u (5) tal-artikolu 410, mhux aktar tard minn erbat (4) ijiem tax-xogħol mill-għoti ta' dik is-sentenza, tagħti aċċess lill-Avukat Ġenerali bil-mezzi elettronici, permezz tar-registratur, fi żmien tlett (3) ijiem tax-xogħol minn dakinhar tat-talba, għal kopja skenjata tas-sentenza flimkien ma' kopja skenjata tal-atti tal-kawża u max-xhieda, jekk din tkun tniżżlet bil-miktub.

(2) Fil-każ ta' sentenzi mill-Qorti tal-Maġistrati (Għawdex), il-kopja skenjata tas-sentenza flimkien mal-kopja skenjata tal-atti tal-kawża, u max-xhieda, jekk din tkun tniżżlet bil-miktub, għandhom jintbagħtu bil-mezzi elettronici."

12. Fis-subartikolu (1) tal-artikolu 417 tal-Kodiċi l-kliem "minn dak in-nhar li jirċievi l-atti:" għandhom jiġu sostitwiti bil-kliem "minn dakinhar li jingħata aċċess bil-mezzi elettronici għall-atti skenjati:".

Emenda tal-artikolu 417 tal-Kodiċi.

13. L-artikolu 699 tal-Kodiċi għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 699 tal-Kodiċi.

"Setgħat sabiex isiru regolamenti.

699. Minkejja dispożizzjonijiet oħra ta' dan il-Kodiċi jew ta' xi liġi oħra, il-Ministru responsabbli għall-Ġustizzja jista' jagħmel regolamenti sabiex jirregola:

(a) il-metodi tan-notifika tal-atti ġudizzjarji taħt dan il-Kodiċi; u

(b) id-dritt tal-aċċess b'mezzi elettronici, mill-Prosekuzzjoni u minn xi avukat jew prokuratur legali li jirrapprezentaw lill-imputat jew lill-akkużat, il-vittma jew xi parti interessata oħra, għall-atti tal-kawża u dokumentazzjoni oħra ta' qrati ta' ġuriżdizzjoni kriminali; u

(c) fir-rigward ta' xi kwistjoni oħra li fil-fehma tal-Ministru responsabbli għall-Ġustizzja hija incidental u, jew konsegwenzjali għal xi kwistjoni provduta għaliha fil-paragrafi (a) u (b)."

VERŻJONI ELETTRONIKA

A 66

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 539 tas-26 ta' Jannar, 2022.

ANĠLU FARRUGIA

Speaker

RAYMOND SCICLUNA

Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

4th February, 2022

ACT No. V of 2022

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

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

1. (1) The short title of this Act is the Criminal Code (Amendment No. 2) Act, 2022 and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Short title and commencement.
Cap. 9.

(2) This Act shall come into force on such date as the Minister responsible for justice may, by order in the Gazette, establish, and different dates may be so established for different provisions of the Act.

2. In sub-article (2) of article 392A of the Code, the words "and shall order that the record, together with a copy of the judgment, be transmitted to the Attorney General within six working days" shall be substituted by the words "and shall order that within six (6) working days, the Attorney General shall be given access to a scanned copy of the records, together with access to a scanned copy of the judgment."

Amendment of article 392A of the Code.

A 68

Amendment of article 392B of the Code.

3. Paragraph (a) of sub-article (1) of article 392B of the Code shall be substituted by the following new paragraph:

"(a) order that the Attorney General, within three (3) working days, be granted access by electronic means to a scanned copy of the record of inquiry, together with the objects relating to the case; and".

Amendment of article 401 of the Code.

4. Article 401 of the Code shall be amended as follows:

(a) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3) in either case, the court shall order that the Attorney General, be granted access by electronic means to a scanned copy of the record of the inquiry together with all the exhibits in the case, within three (3) working days."; and

(b) in sub-article (3A) thereof, the words "The court shall also adjourn the case as aforesaid after having received back from the Attorney General the record of the inquiry and before returning the record to the Attorney General in terms of any provision of this Code." shall be deleted.

Amendment of article 402 of the Code.

5. Article 402 of the Code shall be amended as follows:

(a) in sub-article (4) thereof, the words "the court shall order that the record of the inquiry be transmitted to the Attorney General within the term prescribed in sub-article (3) of the last preceding article" shall be substituted by the words "the court shall order that the Attorney General shall be given access by electronic means to a scanned copy of the record of the inquiry within three (3) working days";

(b) sub-article (5) thereof shall be substituted by the following new sub-article:

"(5) If, upon receipt of the scanned record by electronic means, the Attorney General decides to contest the finding of the experts that the accused was insane, he may, within the term prescribed in article 432(1), request that the inquiry into the merits of the case be proceeded with, or file an application before the Criminal Court submitting the issue to that court, so that action may be taken as provided in articles 620, 627 and 628:

Provided that the Attorney General shall file

such application if the accused by application to the court of criminal inquiry makes a request to that effect before access to the scanned record by electronic means is granted to the Attorney General in terms of the last preceding sub-article."

6. Article 405 of the Code shall be amended as follows:

Amendment of article 405 of the Code.

(a) sub-article (2) thereof shall be substituted by the following new sub-article:

"Attorney General to forward the demand. (2) The Attorney General shall, for such purpose, transmit to the court the demand, stating therein the subject on which the examination or re-examination is to take place.";

(b) sub-article (6) thereof shall be substituted by the following new sub-article:

"Access to scanned record by electronic means to be transmitted to Attorney General. (6) Access by electronic means to the depositions of witnesses taken under this article shall, without delay, be transmitted to the Attorney General."; and

(c) sub-article (7) shall be substituted by the following new sub-article:

"Time-frame for the indictment when a demand is made by the charged for the re-examination of witnesses or the examination of new witnesses. (7) When the demand for the examination of witnesses is made by the charged, the term for the filing of the indictment shall commence to run from the day on which access by electronic means to the scanned record of the inquiry, together with access by electronic means to the depositions of the witnesses so examined, shall be re-transmitted to the Attorney General.".

7. Article 406 of the Code shall be amended as follows:

Amendment of article 406 of the Code.

(a) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) The record of the proceedings shall be forwarded by the registrar to the Court of Magistrates together with the said application."; and

(b) sub-article (3) shall be substituted by the following new sub-article:

"(3) The Court of Magistrates shall send back the

A 70

record, together with the depositions taken, to the Criminal Court, and shall order that the Attorney General be granted, within three (3) days, access by electronic means to the scanned evidence of the witnesses if heard."

Amendment of article 408 of the Code.

8. Sub-article (1) of article 408 of the Code shall be substituted by the following new sub-article:

"(1) During the inquiry and until access by electronic means of the scanned record is given to the Attorney General, no access to the party accused, when in custody, shall be allowed except with the permission of the inquiring magistrate."

Amendment of article 409A of the Code.

9. Sub-article (4) of article 409A of the Code shall be substituted by the following new sub-article:

"(4) Where the court decides to allow the application, access by electronic means to the scanned record of the proceedings, including a scanned copy of the court's decision, shall be transmitted to the Attorney General by not later than the next working day and the Attorney General may, within two (2) working days from receipt of the access by electronic means of the scanned record and if he is of the opinion that the arrest and continued detention of the person released from custody was founded on any provision of this Code or of any other law, apply to the Criminal Court to obtain the re-arrest and continued detention of the person so released from custody."

Amendment of article 412B of the Code.

10. Sub-article (3) of article 412B of the Code shall be substituted by the following new sub-article:

"(3) Where the application is filed in connection with proceedings pending before the Court of Magistrates as a court of criminal inquiry before a bill of indictment has been filed or if the term referred in sub-article (3A) of article 401 is still running, the application shall be filed in the Criminal Court and the foregoing provisions of this article shall *mutatis mutandis* apply thereto."

Substitution of article 414 of the Code.

11. Article 414 of the Code shall be substituted by the following

new article:

"Demand of Police for transmission of record of proceedings to Attorney General.

414. (1) Where the proceedings have been instituted by the Police, the court by which the judgment has been delivered shall, on a demand in writing by the Police or by the injured party served with the notice of first hearing or admitted into the proceedings as provided in sub-articles (4) and (5) of article 410, to be made to it not later than four (4) working days from the delivery of such judgment, grant access by electronic means through the registrar, within three (3) working days from such demand, to a scanned copy of the judgment, together with a scanned copy of the record of the proceedings and the notes of the depositions, if any would have been noted in writing, to the Attorney General.

(2) In the case of judgments by the Court of Magistrates (Gozo), the scanned copy of the judgment, together with the scanned copy of the record of the proceedings and the notes of the depositions, if any would have been noted in writing, shall be sent by electronic means."

12. In sub-article (1) of article 417 of the Code, the words "from the day on which he receives the record:" shall be substituted by the words "from the day on which he is given access by electronic means of the scanned record:"

Amendment of article 417 of the Code.

13. Article 699 of the Code shall be substituted by the following new article:

Substitution of article 699 of the Code.

"Power to make regulations.

699. Notwithstanding other provisions of this Code and of any other law, the Minister responsible for Justice may make regulations to regulate:

(a) the methods of service of judicial acts under this Code; and

(b) the right of access by electronic means, by the Prosecution and by any advocate or legal procurator representing the charged or accused, the victim, or any other interested party, to the record of proceedings and other documents of courts of criminal jurisdiction; and

(c) in respect of any other matter which in the opinion of the Minister responsible for Justice is incidental and, or consequential to any matter provided for in paragraphs (a) and (b)."

A 72

Passed by the House of Representatives at Sitting No. 539 of the
26th January, 2022.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA