

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Kodiċi Kriminali, Kap. 9. u biex jipprovdi għal affarijiet oħra li huma ancillari jew konsgwenzjali għal dan.

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:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2015 li jemenda l-Kodiċi Kriminali u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem imsejjah "il-Kodiċi". Titolu fil-qosor.
Kap. 9.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom japplikaw għal kull proċeduri kriminali li jkunu bdew wara li dan jiġi fis-seħh u ma għandhom bl-ebda mod jaffettwaw il-validità ta' kwalunkwe proċeduri legali li jkunu ġew konklużi jew li jkunu għandhom pendent i fiż-żmien tad-dhul fis-seħh tiegħu.

2. Fis-subartikolu (3) tal-artikolu 23B tal-Kodiċi, fit-tifsira "rikavat" minnufih wara l-kliem "minn dik il-proprjetà" għandhom jiżdiedu l-kliem "fi jew li magħhom dan ir-rikavat ikun trasformat, konvertit jew amalgamat u kwalunkwe investment mill-ġdid sussegwenti jew it-trasformazzjoni tar-rikavat dirett: Emenda tal-artikolu 23B tal-Kodiċi.

Iżda dik il-proprjetà li tkun ġiet trasformata jew konvertita, għal kollox jew parti minnha, fi proprjetà oħra, u l-proprjetà li tkun ġiet amalgamata mal-proprjetà akkwistata minn sorsi legittimi, sal-valur valutat tal-qligħ amalgamat, għandha tiġi inkluża fi hdan din it-tifsira."

3. L-artikolu 23Ċ tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minflok il-kliem "l-qorti, wara li tinforma ruhha minn fatti speċifiċi, tkun għal kollox konvinta li l-proprjetà in kwistjoni tkun inkisbet mill-attività kriminali ta' dik il-persuna," għandhom jiġu sostitwiti l-kliem "l-qorti tista' raġonevolment tippreżumi li jkun sostanzjalment aktar probabbli, li l-proprjetà in kwistjoni tkun inkisbet mill-attività kriminali ta' dik il-persuna u mhux minn attivitajiet oħra,";

(b) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (6) u minnufih wara s-subartikolu (2) għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(3) Meta persuna tiġi mixlija jew akkużata b'reat rilevanti li jista' jagħti lok, direttament jew indirettament, għal benefiċċju ekonomiku, u l-proċeduri ma jkunux jistgħu jkomplu minhabba mard jew minhabba li l-istess persuna tkun ħarbet, u l-qorti fuq bażi ta' fatti speċifiċi tkun konvinta bis-sħiħ li dawn il-proċeduri setgħu wasslu għall-kundanna tal-persuna mixlija jew akkużata jekk il-persuna tkun dehret quddiem il-qorti jew għaddiet ġuri, il-qorti tista' tordna l-konfiska tal-istrumentalitajiet u r-rikavat tal-imsemmi reat:

Għall-finijiet ta' dan is-subartikolu "mard" tfisser meta l-persuna mixlija jew akkużata ma tkunx tista' tattendi l-proċeduri kriminali għall-perjodu estiż, li bħala riżultat il-proċeduri ma jkunux jistgħux ikomplu taht ċirkostanzi normali.

(4) Bla ħsara tad-disposizzjonijiet tas-subartikolu (2) il-Qorti għandha, b'żieda ma' kull piena oħra, fis-sentenza tagħha jew f'kwalunkwe żmien wara dan, tordna t-teħid tar-rikavat kollu jew proprjetà oħra li l-valur tagħhom jikkorrispondi għar-rikavat, liema, direttament jew indirettament, ġew trasferiti minn persuna suspettata jew akkużata lil terza persuna, jew li ġew akkwistati minn parti terza minn persuna suspettata jew akkużata, meta t-terza persuna tkun taf jew kellha tkun taf li l-iskop tat-trasferiment jew l-akkwist kien sabiex tiġi evitata l-konfiska.

(5) Xejn ma għandu jipprekludi l-iskoperta u traċċar ta' proprjetà kif provdut taht dan il-Kodiċi jew xi liġi oħra, sabiex tiġi iffriżata jew ikkonfiskata wara l-

kundanna finali għal reat jew wara li jkunu saru l-proċedimenti skont is-subartikolu (3), u sabiex tiġi żgurata l-eżekuzzjoni tal-ordni tal-konfiska, meta ordni bħal din tkun diġà nħarġet."

4. L-artikolu preżenti 54G tal-Kodiċi għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu u minnufih wara għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 54G tal-Kodiċi.

"(2) Għall-finijiet ta' dan l-artikolu, il-frazi "resident permanenti" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 5(1)(d)".

5. Fil-verżjoni Ingliża tas-subparagrafu (ii) tal-paragrafu (ċ) tas-subartikolu (4) tal-artikolu 83A tal-Kodiċi minflok il-kliem "provided in sub-article (1)," għandhom jiġu sostitwiti l-kliem "provided in sub-article (2),".

Emenda tal-artikolu 83A tal-Kodiċi.

6. L-artikolu 83Ċ tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 83Ċ tal-Kodiċi.

(a) minflok il-kliem "il-persuna ġuridika tista' tkun sugġetta għal:" għandhom jiġu sostitwiti l-kliem "mingħajr preġudizzju għal kull piena oħra li jista' jeħel taħt xi disposizzjoni oħra ta' dan il-Kodiċi jew ta' xi liġi oħra, l-imsemmi korp magħqud jista' jkun sugġett għal:";

(b) il-paragrafu (b) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(b) is-sospensjoni jew it-thassir ta' kull liċenza, permess jew awtorità oħra biex jeżerċita xi kummerċ, negozju jew attività kummerċjali oħra;"

(ċ) il-paragrafu (d) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(d) l-istralċ obbligatorju tal-korp magħqud;"

(d) il-paragrafu (e) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(e) l-għeluq temporanju jew permanenti ta' xi stabbiliment li seta' ġie użat għall-għemil tar-reat:"

7. Fil-paragrafu (b) tal-artikolu 121Ċ tal-Kodiċi minnufih wara l-kliem "jew residenti permanenti f'Malta" għandhom jiżdiedu l-kliem "fi hdan it-tifsira tal-artikolu 5(1)(d)".

Emenda tal-artikolu 121Ċ tal-Kodiċi.

Emenda tal-artikolu 121D tal-Kodiċi.

8. L-artikolu 121D tal-Kodiċi għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"121D. Meta reat taht dan it-titolu ġie mwettaq minn persuna li dak iż-żmien tal-imsemmi reat tkun id-direttur, il-*manager*, is-segretarju jew xi uffiċjal prinċipali ieħor ta' korp magħqud jew tkun persuna li jkollha s-setgħat ta' rappreżentanza ta' dak il-korp jew li jkollha l-awtorità li tiegħu deċiżjonijiet f'isem dak il-korp jew ikollha awtorità li teżerċita kontroll fi ħdan dak il-korp u r-reat imsemmi li dwaru tkun instabet haġja dik il-persuna, jkun kollu jew f'parti minnu, sar għall-benefiċċju ta' dak il-korp magħqud, dik il-persuna għandha għall-għanijiet ta' dan it-titolu titqies bħala li tkun vestita bir-rappreżentanza legali tal-istess korp magħqud li jista' jehel il-ħlas ta' multa ta' mhux inqas minn għoxrin elf euro (20,000) u mhux aktar minn żewġ miljun (2,000,000), liema multa tista' tiġi rkuprata bħala dejn ċivili u s-sentenza tal-Qorti tkun tikkostitwixxi titolu eżekuttiv għall-finijiet u l-effetti kollha tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Iżda meta l-imsemmija persuna ma tkunx għadha vestita bir-rappreżentanza legali, għall-finijiet ta' dan l-artikolu, ir-rappreżentanza legali għandha tiġi vestita fil-persuna li tkun qed tokkupa l-kariga minflokha jew f'dik il-persuna kif imsemmi f'dan l-artikolu."

Emenda tal-artikolu 208B tal-Kodiċi.

9. Fl-artikolu 208B tal-Kodiċi minnufih wara s-subartikolu (6) għandu jizjed is-subartikolu ġdid li ġej:

"(7) Għall-finijiet ta' dan l-artikolu, il-frazi "resident permanenti" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 5(1)(d)".

Emenda tal-artikolu 222A tal-Kodiċi.

10. Fil-paragrafu (a) tas-subartikolu (3) tal-artikolu 222A tal-Kodiċi, minflok il-kliem "lingwa, oriġini etnika," għandhom jiġu sostitwiti l-kliem "lingwa, nazzjonalità jew oriġini etnika, ċittadinanza,".

Emenda tal-artikolu 248E tal-Kodiċi.

11. L-artikolu 248E tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (3) tiegħu minflok il-kliem "multa ta' mhux inqas minn ħdax-il elf sitt mija u sitta u erbgħin euro u sebgha u tmenin ċenteżmu (11,646.87) iżda mhux iżjed minn miljun u tmien mija u tlieta u sittin elf u erba' mija u tmienja u disgħin euro u tnejn u sebghin ċenteżmu (1,863,498.72)." għandhom jiġu sostitwiti l-kliem "multa ta' mhux inqas minn għoxrin elf euro (20,000) u mhux aktar minn żewġ miljun euro (2,000,000), liema multa tista' tiġi rkuprata

bhala dejn ċivili u s-sentenza tal-Qorti tkun tikkostitwixxi titolu eżekuttiv għall-finijiet u l-effetti kollha tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.";

(b) is-subartikolu (4A) tiegħu għandu jiġi emendat kif ġej:

(i) is-subparagrafu (ii) tiegħu għandu jiġi sostitwit bis-subparagrafu ġdid li ġej:

"(ii) is-sospensjoni jew it-thassir ta' kull liċenza, permess jew awtorità oħra biex jeżerċita xi kummerċ, negozju jew attività kummerċjali oħra;"

(ii) is-subparagrafi (iv) u (v) tiegħu għandhom jiġu sostitwiti bis-subparagrafi ġodda li ġejjin:

"(iv) l-istralċ obligatorju tal-korp magħqud;

(v) l-għeluq temporanju jew permanenti ta' xi stabbiliment li seta' gie użat għall-għemil tarreat.";

(ċ) minnufih wara s-subartikolu (9) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(10) Għall-finijiet ta' dan l-artikolu, il-frazi "resident permanenti" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 5(1)(d)."

12. L-artikolu 251AA tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 251AA tal-Kodiċi.

(a) il-paragrafu (b) tas-subartikolu (2) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(b) tikkostitwixxi xi wieħed mir-reati msemmija fis-subartikolu (3), u";

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

"(3) Dawn l-atti li ġejjin għandhom jitqiesu bhala atti ta' segwiment ta' persuna bil-moħbi:".

13. Fl-artikolu 251I tal-Kodiċi minnufih wara s-subartikolu (3) għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 251I tal-Kodiċi.

"(4) Għall-finijiet ta' dan l-artikolu, il-frazi "resident

permanenti" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 5(1)(d).".

Emenda tal-artikolu 257F tal-Kodiċi.

14. Fis-subartikolu (4) tal-artikolu 257F tal-Kodiċi minnufih wara t-tifsira "adult dipendenti" għandha tiżdied it-tifsira ġdida li ġejja: "resident permanenti" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 5(1)(d).".

Emenda tal-artikolu 314ĊD tal-Kodiċi.

15. L-artikolu 314ĊD tal-Kodiċi għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu u minnufih wara għandu jiżdied is-subartikolu ġdid li ġejj:

"(2) Għall-finijiet ta' dan l-artikolu, il-frazi "resident permanenti" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 5(1)(d).".

Emenda tal-artikolu 328 tal-Kodiċi

16. Fit-tieni proviso tal-artikolu 328 tal-Kodiċi minflok il-kliem "ma għandhiex titqies li tikkostitwixxi l-abbandun tal-proċedimenti jew l-irtirar tal-kwerela sakemm dik l-assenza ssehh fi stadju sussegwenti għall-imsemmija konferma bil-ġurament tal-kwerela mill-kwerelant" għandhom jiġu sostitwiti l-kliem "ma għandha bl-ebda mod taffettwa l-legalità tal-proċeduri u lanqas ma tiġi kkunsidrata li tikkostitwixxi l-irtirar tal-kwerela".

Emenda tal-artikolu 328Ċ tal-Kodiċi.

17. L-artikolu 328Ċ tal-Kodiċi għandu jiġi emendat kif ġejj:

(a) fis-subartikolu (2) tiegħu minflok il-kliem "att ta' terroriżmu", kull fejn jidhru, għandhom jiġu sostitwiti l-kliem "attivitajiet terroristiċi";

(b) fil-paragrafu (b) tas-subartikolu (2) tiegħu kif emendat, minnufih wara l-kliem "attivitajiet terroristiċi" għandhom jiżdiedu l-kliem "jew biex tivjaġġa għall-finijiet imsemmija fil-paragrafu (d)";

(ċ) fil-paragrafu (ċ) tiegħu kif emendat, minflok il-kliem "attivitajiet terroristiċi," għandhom jiġu sostitwiti l-kliem "attivitajiet terroristiċi;" u minnufih wara għandhom jiżdiedu l-paragrafi ġodda li ġejjin :

"(d) jivvjaġġa jew jittanta jivvjaġġa sabiex iwettaq, jippjana, jew jipprepara għal, jew jipparteċipa f'attivitajiet terroristiċi, jew l-għoti jew sabiex jirċievi taħriġ f'attivitajiet terroristiċi;

(e) jiffinanzja, jorganizza jew b'xi mod ieħor jiffacilita l-ivvjaġġar għall-finijiet imsemmija fil-paragrafu (d);

(f) jipproduċi, jiddistribwixxi, iqassam, jimporta, jesporta, joffri, ibiġh, jissupplixxi, jittrasmetti, jagħmel disponibbli, jipprokura għalih jew għal haddiehor, jew juri pubblikazzjoni li x'aktarx tinkoraġġixxi jew iġieghel biex isiru attivitajiet terroristiċi jew ikun utli fit-twettiq ta' dawn l-attivitajiet,".

(d) is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(4) Biex isir reat taht dan l-artikolu, mhux mehtieg li attivitajiet terroristiċi jkunu fil-fatt saru.".

18. Fil-paragrafu (b) tal-artikolu 328M tal-Kodiċi minnufih wara l-kliem "residenti permanenti" għandhom jiżdiedu l-kliem "fi hdan it-tifsira tal-artikolu 5(1)(d)".

Emenda tal-artikolu 328M tal-Kodiċi.

19. Minnufih wara s-subartikolu (2) tal-artikolu 328O tal-Kodiċi għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 328O tal-Kodiċi.

"(3) Għall-finijiet ta' dan l-artikolu, il-frazi "resident permanenti" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 5(1)(d)".

20. Fil-paragrafu (b) tas-subartikolu (2) tal-artikolu 337A tal-Kodiċi minnufih wara l-kliem "residenti permanenti" għandhom jiżdiedu l-kliem "fi hdan it-tifsira tal-artikolu 5(1)(d)".

Emenda tal-artikolu 337A tal-Kodiċi.

21. Is-subartikolu (1) tal-artikolu 337B tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 337B tal-Kodiċi.

(a) fit-tifsira "*computer data*", il-kliem "proċessati f'sistema ta' *computer*", għandhom jiġu sostitwiti l-kliem "proċessati f'sistema tal-informatika jew f'sistema ta' *computer*";

(b) minnufih wara t-tifsira "*sistema tal-computer*" għandha tizdied it-tifsira ġdida li ġejja:

"sistema tal-informatika" tfisser apparat jew grupp ta' apparat imqabbd ma' xulxin jew relatati, wiehed jew aktar minnhom, skont programm, jipproċessa awtomatikament *data tal-computer*, kif ukoll *data* maħżuna fuq il-*computer*, ipproċessata, migbura jew trasmessa minn dak l-apparat jew grupp ta' apparat għall-finijiet tiegħu jew l-operat tagħhom, l-użu, l-protezzjoni u l-manutenzjoni;".

Emenda tal-artikolu 337Ċ tal-Kodiċi.

22. Is-subartikolu (1) tal-artikolu 337Ċ tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minnufih wara l-paragrafu (e) tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

"(ee) tfixxkel jew tinterrompi l-funzjonament ta' sistema tal-informatika, billi tiddaħħal *data* fil-*computer*, billi tittrassmetti, tagħmel ħsara, tħassar, tiddeterjora, tibdel jew iżzomm lura *data* bħal din jew billi tirrendiha inaċċessibbli;"

(b) fil-paragrafu (g) tiegħu minnufih wara l-kliem "dokumentazzjoni ta' appoġġ" għandu jiżdied il-kliem "jew tirrendi *data* bħal din inaċċessibbli";

(ċ) fil-paragrafu (i) tiegħu minnufih wara l-kliem "*computer*" għandu jiżdied dan li ġej "jew b'xi mod tikser kwalunkwe miżura ta' sigurtà sabiex takkwista aċċess mingħajr awtorizzazzjoni għas-sistema tal-informatika kollha jew parti minnha";

(d) fil-paragrafu (k) tiegħu minflok il-kliem "minn jew go sistema ta' *computer*, inkluż emissjonijiet elettromanjetiċi minn sistema ta' *computer* li tkun iġġorr dik id-*data* tal-*computer*;" għandhom jiġu sostitwiti l-kliem "minn jew go sistema tal-informatika jew sistema ta' *computer*, inkluż emissjonijiet elettromanjetiċi minn sistema tal-informatika jew sistema ta' *computer* li tkun iġġorr dik id-*data* tal-*computer*;

(e) fil-paragrafu (l) tiegħu minnufih wara l-kliem "(a) sa (j)" għandu jiżdied dan li ġej "jew *password* tal-*computer*, kodiċi ta' aċċess, jew *data* simili b'liema parti jew is-sistema tal-informatika sħiħa tkun kapaċi tiġi aċċessata".

Emenda tal-artikolu 337F tal-Kodiċi.

23. L-artikolu 337F tal-Kodiċi għandu jiġi emendat kif ġej:

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

"(2) Il-penali għandha tiżdied għal multa ta' mhux anqas minn ħames mitt euro (500) u mhux aktar minn mija u ħamsin elf euro (150,000) jew prigunerija għal terminu ta' tnaħ-il xahar sa għaxar snin, jew kemm dik il-multa jew prigunerija flimkien fejn ir-reat jikkonsisti f'wiehed mis-segwenti każijiet li ġejjin:

(a) jikkostitwixxi att li b'xi mod ikun ta' ħsara

għal xi funzjoni jew attività tal-Gvern, jew itellef, jgħarraq jew jinterrompi b'xi mod l-għoti ta' xi servizz jew utilità pubblika, kemm jekk dak is-servizz jew dik l-utilità jkunu provduti jew imhaddma minn xi entità tal-Gvern;

(b) jikkawża ħsara serja;

(ċ) isir kontra sistema ta' informazzjoni dwar faċilità infrastrutturali kritika;

(d) jitwettaq skont id-Deciżjoni Kwadru tal-Kunsill 2008/841/JHA tal-24 ta' Ottubru 2008 dwar il-għlieda kontra l-kriminalità organizzata;

(e) isir permezz tal-użu ħażin ta' *data* personali ta' persuna oħra, bil-għan li tiġi akkwistata l-fiduċja minn għand terza persuna, b'hekk jiġi kkawżat preġudizzju lis-sid legittimu tal-identità:

Izda meta persuna tinstab hatja ta' reat kontra dan is-subartikolu għat-tieni jew aktar drabi, il-penali minima għal dak ir-reat ma għandhiex tkun inqas minn ħamest elef euro (5,000):

Izda wkoll f'dan l-artikolu "faċilità infrastrutturali" għandu jkollha l-istess tifsira kif mogħti lilha bl-artikolu 314A(4).";

(b) fis-subartikolu (5) tiegħu, minnufih wara l-kliem "li b'xi mod" għandhom jiżdiedu l-kliem "ixxewwex,".

24. Fis-subartikolu (1) tal-artikolu 337H tal-Kodiċi minflok il-kliem "208B(5) u 248E(4)" għandhom jiġu sostitwiti l-kliem "208B(5), 248E(4) u 248E(4A)".

Emenda tal-artikolu 337H tal-Kodiċi.

25. L-artikolu 370 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 370 tal-Kodiċi.

(a) fil-paragrafu (b) tas-subartikolu (1) tiegħu minflok il-kliem "mhux aktar minn sitt xhur" għandhom jiġu sostitwiti l-kliem "mhux aktar minn sentejn";

(b) fil-paragrafu (a) tas-subartikolu (3) tiegħu minflok il-kliem "iżjed minn sitt xhur izda mhux iżjed minn għaxar snin" għandhom jiġu sostitwiti l-kliem "iżjed minn sentejn izda mhux iżjed minn tnax-il sena";

(ċ) fil-paragrafu (a) tas-subartikolu (4) tiegħu minflok

il-kliem "aktar minn sitt xhur iżda mhux aktar minn erba' snin" għandhom jiġu sostitwiti l-kliem "aktar minn sentjen iżda mhux aktar minn sitt snin".

Emenda tal-artikolu 392A tal-Kodiċi

26. L-artikolu 392A tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "għaxar snin" għandhom jiġu sostitwiti l-kliem "tnax-il sena";

(b) is-subartikoli (6) and (7) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (7) u (8); u

(c) minnufih wara s-subartikolu (5) tiegħu għandu jizdied is-subartikolu ġdid li ġej:

"(6) Il-qorti ma' għandhiex, meta tagħti sentenza tagħha, tqis kull ftehim dwar is-sentenza li tkun ser tingħata li ma jkunx sar skont is-subartikolu (5).".

Emenda tal-artikolu 392B tal-Kodiċi.

27. L-artikolu 392B tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "għaxar snin" għandhom jiġu sostitwiti l-kliem "tnax-il sena";

(b) fil-verżjoni bl-Ingliż tas-subartikolu (2) tiegħu, minflok il-kliem "shall declare that the indictment presented" għandhom jiġu sostitwiti l-kliem "shall declare that the charge presented".

Emenda tal-artikolu 435AA tal-Kodiċi.

28. Fis-subartikolu (1) tal-artikolu 435AA tal-Kodiċi minflok il-kliem "perjodu speċifiku l-operazzjonijiet bankarji" għandhom jiġu sostitwiti l-kliem "perjodu speċifiku it-transazzjonijiet jew l-operazzjonijiet bankarji".

Emenda tal-artikolu 435BA tal-Kodiċi.

29. Fis-subartikolu (1) tal-artikolu 435BA tal-Kodiċi minflok il-kliem "sorveljanza ta' operazzjonijiet bankarji" għandhom jiġu sostitwiti l-kliem "sorveljanza ta' transazzjonijiet jew operazzjonijiet bankarji".

Emenda tal-artikolu 435D tal-Kodiċi.

30. Fis-subartikolu (1) tal-artikolu 435D tal-Kodiċi minflok il-kliem "misjuba ħatja ta' reat rilevanti" għandhom jiġu sostitwiti l-kliem "deskritta fl-ordni".

Emenda tal-artikolu 500 tal-Kodiċi.

31. Fis-subartikolu (3) tal-artikolu 500 tal-Kodiċi, minflok il-kliem "Fuq kull appell kontra l-liberazzjoni, kemm fir-rigward ta' parti mill-akkuża jew kollha kemm hi, il-Qorti tal-Appell Kriminali għandha tilqa' l-appell mill-Avukat Ġenerali jekk jidhrilha li waqt il-proċeduri seħhew irregolaritajiet, jew f'każ ta', miżinterpretazzjoni jew applikazzjoni skorretta tal-liġi" għandhom jiġu sostitwiti l-kliem

"Il-Qorti tal-Appell Kriminali għandha tilqa' l-appell mill-Avukat Ġenerali jekk jidhrilha li waqt il-proċeduri seħhet irregolarità gravi jew li s-sentenza hija b' mod car il-frott ta' miżinterpretazzjoni manifesta jew ta' applikazzjoni manifestament skoretta tal-liġi".

32. Fil-paragrafu (b) tas-subartikolu (1) tal-artikolu 520 tal-Kodiċi minflok il-kliem "l-artikoli 98" għandhom jiġu sostitwiti l-kliem "l-artikoli 97".

Emenda tal-artikolu 520 tal-Kodiċi.

33. Fil-proviso tal-artikolu 534A tal-Kodiċi minflok il-kliem "proċeduri ta' estradizzjoni." għandhom jiġu sostitwiti l-kliem "proċeduri ta' estradizzjoni:" u minnufih għandu wara jizdied il-proviso ġdid li ġej:

Emenda tal-artikolu 534A tal-Kodiċi.

"Izda wkoll id-dispożizzjonijiet ta' dan it-Titolu għandhom wkoll japplikaw għal persuna barra mill-persuna suspettata jew akkużata li, fil-kors tal-interrogazzjoni mill-pulizija u minn awtorità oħra għall-infurzar tal-liġi, issir persuna suspettata jew akkużata."

34. Is-subartikolu (2) tal-artikolu 579 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 579 tal-Kodiċi.

(a) minflok il-kliem "mhux aktar minn sitt xhur," għandhom jiġu sostitwiti l-kliem "mhux aktar minn erbgħa xhur sa sentejn,";

(b) minflok il-kliem "jista' jiġi" għandhom jiġu sostitwiti l-kliem "għandu jiġi".

35. Minnufih wara l-artikolu 699 tal-Kodiċi, għandu jizdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Kodiċi.

"Uffiċċju għall-Irkupru tal-Assi.

700. (1) Il-Ministru jista', b'regolamenti, jipprovdi għat-twaqqif ta' Uffiċċju magħruf bħala l-Uffiċċju għall-Irkupru tal-Assi, jipprovdi għall-istruttura tiegħu, is-setgħat, it-tqassim tad-dmirijiet, ir-responsabbiltajiet għal danni, proċeduri amministrattivi u operattivi, inklużi proċeduri interni, ir-rappreżentanza ġuridika u legali tal-Uffiċċju, il-finanzjament tiegħu u għal kull haġa anċillari jew inċidentali għalih.

(2) L-Uffiċċju, għandu jkun korp ġuridiku li jkollu personalità legali distinta u jista' wkoll ikun stabbilit bħala Aġenzija Governattiva. L-Uffiċċju għandu jkollu s-setgħa li jidhol f'kuntratti, jikkonkludi *memoranda* ta' qbil jew ftehim iehor ma' kwalunkwe korp barrani, awtorità jew aġenzija, li jakkwista, jzomm u jiddisponi minn kull tip ta' proprjetà għall-finijiet tal-funzjonijiet tiegħu, li jharrek u li jiġi mharrek, u li jagħmel dawk l-affarijiet kollha u li jidhol f'dawk l-operazzjonijiet kollha kif inhuma inċidentali jew li jwasslu għat-twettieq tal-funzjonijiet tiegħu taht dan l-Att, inkluż is-self ta' flus.

(3) Il-Ministru jista' jagħmel regolamenti ulterjuri sabiex jipprovdi għall-funzjonijiet u s-setgħat tal-Uffiċċju li għandu jkun responsabbli sabiex jirrintraċċa, jidentifika, jiffriża, jikkonfiska u jiġġestixxi assi u proprjetà relatata, direttament jew indirettament, ma' attività kriminali bil-għan li jiġġieled il-kriminalità u għal dan il-fini jista' jawtorizza l-Uffiċċju sabiex jeżerċita dawk is-setgħat li jistgħu jiġu eżerċitati mill-Kummissarju tal-Pulizija, mill-Kummissarju tat-Taxxi jew kull awtorità oħra pubblika stabbilita' bil-liġi.

(4) Il-Ministru jista', bis-saħħa tal-imsemmija regolamenti, jordna li dan il-Kodiċi jew xi liġi oħra jkollhom effett fir-rigward tal-funzjonijiet, setgħat u operazzjonijiet tal-Uffiċċju u l-uffiċjali u l-persunal tiegħu jkunu suġġetti għal dawk il-kundizzjonijiet, eċċezzjonijiet, adatazzjonijiet jew modifiki kif jista' jiġi speċifikat fl-imsemmija regolamenti.

(5) Mingħajr ħsara għal generalità ta' dak li ntqal qabel, il-Ministru jista' jagħmel regolamenti għal kull haġa li hija inċidentali, konsegwenzjali jew anċillarja għall-affarijiet disposti f'dan l-artikolu.

(6) Għal finijiet ta' dan l-artikolu:

"Kummissarju tal-Pulizija" għandu jkollha l-istess tifsira kif mogħtija lilha skont l-Att dwar il-Pulizija;

"Kummissarju tat-Taxxa" għandu jkollha l-istess tifsira kif mogħti lilha fl-Att dwar il-Kummissarju tat-Taxxi.

Kap. 164.

Kap. 517.

36. L-artikolu 120A l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha għandha tiġi emendata kif ġej:

Emendi
konsegwenzjali
għall-Ordinanza
dwar il-
Professjoni
Medika u l-
Professjonijiet li
għandhom
x'jaqsmu
magħha.
Kap. 31.

(a) fil-paragrafu (b) tas-subartikolu (2E) tagħha minflok il-kliem "mit-tmiem tal-kumpilazzjoni, jitlob" għandhom jiġu sostitwiti l-kliem "mit-tmiem tal-kumpilazzjoni jew fi żmien sebat ijiem mid-data li fiha l-persuna akkużata tkun notifikata bl-att ta' akkuża, jitlob";

(b) fit-tieni proviso tal-paragrafu (b) tas-subartikolu (2E) tagħha minflok il-kliem "mit-tmiem tal-kumpilazzjoni, jitlob" għandhom jiġu sostitwiti l-kliem "mhux aktar tard mit-30 ta' April 2015:" u minnufih wara l-imsemmi tieni proviso tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

"Għal finijiet ta' dan is-subartikolu l-kliem "it-tmiem tal-kumpilazzjoni" jinkludu kull tmiem ta' kumpilazzjoni imsemmija fl-artikolu 407 tal-Kodiċi Kriminali".;

(ċ) minnufih wara s-subartikolu (2F) tagħha għandu jiżdied is-subartikolu ġdid li ġej:

"(2G)Fejn jiġi stabbilit illi sar reat taht din l-Ordinanza minn uffċjal ta' korp ġuridiku kif imsemmi fl-artikolu 121D tal-Kodiċi Kriminali jew minn persuna li għandha s-setgħa ta' rappreżentanza jew li għandha dik l-awtorità kif imsemmija f'dak l-artikolu u r-reat sar għall-benefiċċju, f'parti minnu jew fl-intier tiegħu, ta' dak il-korp ġuridiku, l-imsemmija persuna għall-finijiet ta' din l-Ordinanza għandha titqies li għandha r-rappreżentanza legali tal-istess korp ġuridiku li jehel multa li ma taqbiżx iż-żewġ miljuni u ħames mitt euro (2,500,000):

Izda meta r-rappreżentanza legali ma tibqax vestita fl-istess persuna, għall-finijiet ta' dan l-artikolu, ir-rappreżentanza legali għandha tiġi vestita fil-persuna li tkun qed tokkupa l-kariga minflokha jew f'dik il-persuna imsemmija f'dak l-artikolu."

37. (1) L-Ordinanza dwar il-Mediċini Perikolużi għandha tiġi emendata kif ġej:

Emendi
konsegwenzjali
għall-Ordinanza
dwar il-
Mediċini
Perikolużi.
Kap. 101

(a) fil-paragrafu (b) tas-subartikolu (2A) tal-artikolu 22 tagħha minflok il-kliem "tintemm il-kumpilazzjoni," għandhom jiġu sostitwiti l-kliem "tintemm il-kumpilazzjoni jew fi żmien sebat ijiem mid-data li fiha l-persuna akkużata tkun notifikata

bl-att ta' akkuża," u fit-tieni proviso tal-paragrafu (b) tas-subartikolu (2A) tiegħu minflok il-kliem "fi żmien xahar mill-imsemmija data." għandhom jiġu sostitwiti l-kliem "mhux aktar tard mit-30 ta' April 2015:" u minnufih wara l-imsemmi t-tieni proviso għandu jiżdied il-paragrafu l-ġdid li ġej:

"Għal finijiet ta' dan is-subartikolu l-kliem "tintemm il-kumpilazzjoni" jinkludu kull tmiem ta' kumpilazzjoni imsemmija fl-artikolu 407 tal-Kodiċi Kriminali"; u

(b) minnufih wara s-subartikolu (2B) tal-artikolu 22 tagħha għandu jiżdied is-subartikolu ġdid li ġej:

"(2C) Fejn huwa stabbilit illi sar reat taht din l-Ordinanza minn uffiċjal ta' korp ġuridiku kif imsemmi fl-artikolu 112D tal-Kodiċi Kriminali jew minn persuna li għandha s-setgħa ta' rappreżentanza jew li għandha dik l-awtorità kif imsemmi f'dak l-artikolu u r-reat sar għal benefiċċju, f'parti minnu jew fl-intier tiegħu, għal dak il-korp ġuridiku, l-imsemmija persuna għal finijiet ta' din l-Ordinanza għandha titqies li għandha r-rappreżentanza legali tal-istess korp ġuridiku li jeħel multa li ma taqbiżx iż-żewġ miljuni u ħames mitt euro (2,500,000):

Iżda meta l-imsemmija persuna ma tkunx għadha vestita bir-rappreżentanza ġuridika, għall-finijiet ta' dan l-artikolu, ir-rappreżentanza ġuridika għandha tiġi vestita fil-persuna li tkun qed tokkupa l-kariga minflokha jew f'dik il-persuna kif imsemmi f'dan l-artikolu."

(ċ) fl-artikolu 27 tagħha l-kliem "għoxrin jum" għandhom jiġu sostitwiti bil-kliem "tletin jum" u l-kliem "dawk l-għoxrin jum" għandhom jiġu sostitwiti bil-kliem "dawk it-tletin jum".

38. (1) L-Att kontra *Money Laundering* għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tal-artikolu 3 tiegħu minflok il-kliem "mhux iżjed minn żewġ miljuni u tliet mija u disgħa u għoxrin elf u tliet mija u tlieta u sebgħin euro u erbgħin ċenteżmu (€2,329,373.40), jew prigunerija għal żmien ta' mhux iżjed minn erbatax-il sena," għandhom jiġu sostitwiti l-kliem "mhux iżjed minn żewġ miljun u ħames mitt euro (2,500,00), jew prigunerija għal żmien ta' mhux iżjed minn tmintax-il sena,";

(b) fis-subartikolu (2A)(a)(i) tal-artikolu 3 tiegħu, minflok il-kliem "mhux inqas minn tliet snin iżda mhux iżjed minn erbatax-il sena, jew multa ta' mhux inqas minn tlieta u għoxrin elf, mitejn u tlieta u disgħin euro u tlieta u sebgħin ċenteżmu (23,293.73) iżda mhux iżjed minn żewġ miljuni tliet mija u disgħa u għoxrin elf tliet mija u tlieta u sebgħin euro u erbghin ċenteżmu (2,329,373.40)," għandhom jiġu sostitwiti l-kliem "mhux anqas minn erba' snin iżda mhux iżjed minn tmintax-il sena, jew multa ta' mhux anqas minn ħamsin elf euro (50,000) u mhux iżjed minn żewġ miljuni u ħames mitt euro (2,500,000),";

(ċ) fis-subartikolu (2A)(a)(ii) tal-artikolu 3 tiegħu, minflok il-kliem "mhux inqas minn sitt xhur iżda mhux iżjed minn disa' snin, jew multa ta' mhux inqas minn elfejn tliet mija u disgħa u għoxrin euro u sebgħa u tletin ċenteżmu (2,329.37) iżda mhux iżjed minn mija u sittax-il elf erba' mija u tmienja u sittin euro u sebgħa u sittin ċenteżmu (116,468.67)," għandhom jiġu sostitwiti l-kliem "mhux inqas minn tnax-il xahar iżda mhux iżjed minn disa' snin, jew multa ta' mhux inqas minn għoxrin elf euro (20,000) iżda mhux iżjed minn mitejn u ħamsin elf euro (250,000),";

(d) fis-subartikolu (2A)(a)(ii)(ii) tal-artikolu 3 tiegħu, minflok il-kliem "tal-kumpilazzjoni, jitlob" għandhom jiġu sostitwiti l-kliem " tal-kumpilazzjoni, jew fi żmien sebat ijiem mid-data li fiha l-persuna akkużata tkun notifikata bl-att ta' akkuża, jitlob,";

(e) is-subartikolu (4) tal-artikolu 3 tiegħu għandu jiġi sostitwit bis-subartikolu gdid li ġej:

"(4) Fejn ikun stabbilit illi sar reat ta' *money laundering* taht dan l-Att minn ufficjal ta' korp ġuridiku kif imsemmi fl-artikolu 112D tal-Kodiċi Kriminali jew minn persuna li għandha s-setgħa ta' rappreżentanza jew li għandha dik l-awtorità kif imsemmi f'dak l-artikolu u r-reat sar għall-benefiċċju, f'parti minnu jew fl-intier tiegħu, ta' dak il-korp ġuridiku, l-imsemmija persuna għall-finijiet ta' dan l-Att għandha titqies li għandha r-rappreżentanza legali tal-istess korp ġuridiku li jehel il-piena stabbilita fis-subartikolu (1):

Iżda meta l-imsemmija persuna ma tkunx għadha vestita bir-rappreżentanza ġuridika, għall-finijiet ta' dan l-artikolu, ir-rappreżentanza ġuridika għandha tiġi vestita fil-persuna li tkun qed tokkupa l-kariga minflokha

jew f' dik il-persuna kif imsemmi f' dan l-artikolu."

(f) l-artikolu 11 tiegħu għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minflok il-kliem "li tinsab hatja ta' reat rilevanti" għandhom jiġu sostitwiti l-kliem "deskritta fl-ordni"; u

(b) is-subartikolu (3) tiegħu għandu jiġi jithassar.

Għanijiet u raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma sabiex jimplimentaw aktar id-Direttiva 2013/40/UE tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Awwissu 2013 dwar attakki kontra s-sistemi tal-informazzjoni, sabiex tiżdied il-kompetenza tal-Qorti tal-Maġistrati u sabiex jiġi stabbilit l-Uffiċċju għall-Irkupru tal-Assi. Dan l-abbozz ta' liġi jipprovdi wkoll emendi konsegwenzjali għal-liġijiet oħra.

A BILL
Entitled

AN ACT to amend the Criminal Code, Cap. 9. and to provide for any other matters ancillary or consequential thereto.

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) Act, 2015, 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) The provisions of this Act shall apply to any criminal proceedings commenced after its coming into force and shall not in any way affect the validity of any criminal proceedings which have been concluded or which are pending at the said time of its coming into force.

2. In sub-article (3) of article 23B of the Code, in the definition of 'proceeds' immediately after the words "from such property" there shall be added the words "into or with which such proceeds have been transformed, converted or intermingled and any subsequent reinvestment or transformation of direct proceeds:

Amendment of
article 23B of
the Code.

Provided that property which has been transformed or converted, fully or in part, into other property, and property which has been intermingled with property acquired from legitimate sources, up to the assessed value of the intermingled proceeds, shall be included within this definition."

3. Article 23C of the Code shall be amended as follows:

(a) in sub-article (1) thereof for the words "the court

Amendment of
article 23C of
the Code.

based on specific facts is fully convinced that the property in question has been derived from the criminal activity of that person," there shall be substituted the words "the court can reasonably presume that it is substantially more probable, that the property in question has been obtained from the criminal activity of that person rather than from other activities,";

(b) sub-article (3) thereof shall be renumbered as sub-article (6) and immediately after sub-article (2) there shall be added the following new sub-articles:

"(3) Where a person has been charged or accused of a relevant offence which is liable to give rise, directly or indirectly, to an economic benefit, and proceedings cannot continue due to the illness or absconding of the said person, and the court based on specific facts is fully convinced that such proceedings could have led to the conviction of the person charged or accused had he appeared in the proceedings or stood trial, it shall be lawful for the court to order the confiscation of the instrumentalities and proceeds of the said offence:

For purposes of this sub-article "illness" shall mean the inability of the suspected or accused person to attend the criminal proceedings for an extended period, as a result of which the proceedings cannot continue under normal conditions.

(4) Saving the provisions of sub-article (2) the Court shall in addition to any other punishment, in its sentence or at any time thereafter, order the forfeiture of all proceeds or other property the value of which corresponds to proceeds, which, directly or indirectly, were transferred by a suspected or accused person to a third party, or which were acquired by a third party from a suspected or accused person, when the third party knew or ought to have known that the purpose of the transfer or acquisition was to avoid confiscation.

(5) Nothing shall preclude the detection and tracing of property as provided for under this Code or any other law, to be frozen and confiscated after a final conviction for an offence or following proceedings in terms of sub-article (3), and to ensure the effective execution of a confiscation order, when such an order has already been issued."

4. The present article 54G of the Code shall be renumbered as sub-article (1) thereof and immediately thereafter there shall be added the following new sub-article: Amendment of article 54G of the Code.

"(2) For the purposes of this article, the phrase "permanent resident" shall have the same meaning assigned to it by article 5(1)(d)."

5. In sub paragraph (ii) of paragraph (c) of sub-article (4) of article 83A of the Code for the words "provided in sub-article (1)," there shall be substituted the words "provided in sub-article (2)," Amendment of article 83A of the Code.

6. Article 83C of the Code shall be amended as follows: Amendment of article 83C of the Code.

(a) for the words "the legal person may be subject to:" there shall be substituted the words "without prejudice to any other punishment to which the body corporate may be liable under any other provision of this Code or of any other law, the said body corporate may be subject to:";

(b) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) the suspension or cancellation of any licence, permit or other authority to engage in any trade, business or other commercial activity;"

(c) paragraph (d) thereof shall be substituted by the following new paragraph:

"(d) the compulsory winding up of the body corporate;"

(d) paragraph (e) thereof shall be substituted by the following new paragraph:

"(e) the temporary or permanent closure of any establishment which may have been used for the commission of the offence:"

7. In paragraph (b) of article 121C of the Code immediately after the words "or permanent resident in Malta" there shall be added the words "within the meaning of article 5(1)(d)". Amendment of article 121C of the Code.

8. Article 121D of the Code shall be substituted by the following new article: Amendment of article 121D of the Code.

"121D. Where an offence under this title has been committed by a person who at the time of the said offence is the

director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the said offence was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this title be deemed to be vested with the legal representation of the same body corporate which shall be liable to the payment of a fine (*multa*) of not less than twenty thousand euro (20,000) and not more than two million euro (2,000,000), which fine may be recovered as a civil debt and the sentence of the Court shall constitute an executive title for all intents and purposes of the Code of Organization and Civil Procedure:

Provided that where legal representation no longer vests in the said person, for purposes of this article, legal representation shall vest in the person occupying the office in his stead or in such person as is referred to in this article."

Amendment of article 208B of the Code.

9. In article 208B of the Code immediately after sub-article (6) there shall be added the following new sub-article:

"(7) For the purposes of this article, the phrase "permanent resident" shall have the same meaning assigned to it by article 5(1)(d)."

Amendment of article 222A of the Code.

10. In paragraph (a) of sub-article (3) of article 222A of the Code, for the words "language, ethnic origin," there shall be substituted the words "language, national or ethnic origin, citizenship,".

Amendment of article 248E of the Code.

11. Article 248E of the Code shall be amended as follows:

(a) in sub-article (3) thereof for the words "fine (*multa*) of not less than eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) and not more than one million and eight hundred and sixty-three thousand and four hundred and ninety-eight euro and seventy-two cents (1,863,498.72)." there shall be substituted the words "fine (*multa*) of not less than twenty thousand euro (20,000) and not more than two million euro (2,000,000), which fine may be recovered as a civil debt and the sentence of the Court shall constitute an executive title for all intents and purposes of the Code of Organization and Civil Procedure.";

(b) sub-article (4A) thereof shall be amended as follows:

(i) sub-paragraph (ii) thereof shall be substituted by the following new sub-paragraph:

"(ii) the suspension or cancellation of any licence, permit or other authority to engage in any trade, business or other commercial activity;"

(ii) sub-paragraphs (iv) and (v) thereof shall be substituted by the following new sub-paragraphs:

"(iv) the compulsory winding up of the body corporate;

(v) the temporary or permanent closure of any establishment which may have been used for the commission of the offence.";

(c) immediately after sub-article (9) thereof there shall be added the following new sub-article:

"(10) For the purposes of this article the phrase "permanent resident" shall have the same meaning assigned to it by article 5(1)(d)."

12. Article 251AA of the Code shall be amended as follows:

Amendment of article 251AA of the Code.

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

"(b) it constitutes any of the acts mentioned in sub-article (3), and";

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

"(3) The following acts shall be deemed to be acts of stalking:".

13. In article 251I of the Code immediately after sub-article (3) there shall be added the following new sub-article:

Amendment of article 251I of the Code.

"(4) For the purposes of this article the phrase "permanent resident" shall have the same meaning assigned to it by article 5(1)(d)."

14. In sub-article (4) of article 257F of the Code immediately after the definition "dependent adult" there shall be added the following new definition: " "permanent resident" shall have the same meaning assigned to it by article 5(1)(d)."

Amendment of article 257F of the Code.

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Amendment of article 314CD of the Code.

15. Article 314CD of the Code shall be renumbered as sub-article (1) thereof and immediately thereafter there shall be added the following new sub-article:

"(2) For the purposes of this article the phrase "permanent resident" shall have the same meaning assigned to it by article 5(1)(d)."

Amendment of article 328 of the Code

16. In the second proviso to article 328 of the Code for the words "shall not be considered to constitute desertion of the proceedings or the withdrawal of the complaint" there shall be substituted the words "shall in no way affect the lawfulness of the procedures nor be considered to constitute the withdrawal of the complaint".

Amendment of article 328C of the Code.

17. Article 328C of the Code shall be amended as follows:

(a) for the words "an act of terrorism" wherever they occur there shall be substituted the words "terrorist activities";

(b) in paragraph (b) of sub-article (2) thereof as amended, immediately after the words "terrorist activities" there shall be added the words "or to travel for purposes mentioned in paragraph (d)";

(c) in paragraph (c) of sub-article (2) thereof as amended, for the words "terrorist activities," there shall be substituted the words "terrorist activities;" and immediately thereafter there shall be added the following new paragraphs:

"(d) travels or attempts to travel for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist activities, or the providing or receiving of training in terrorist activities;

(e) finances, organizes or in any other manner facilitates travel for the purposes mentioned in paragraph (d);

(f) produces, distributes, disseminates, imports, exports, offers, sells, supplies, transmits, makes available, procures for oneself or for another, or shows a publication likely to encourage or induce the commission of terrorist activities or to be useful in the commission of such activities,";

(d) the Maltese version of sub-article (4) thereof shall be substituted by the following:

"(4) Biex isir reat taħt dan l-artikolu, mhux meħtieġ li attivitajiet terroristiċi jkunu fil-fatt saru."

18. In paragraph (b) of article 328M of the Code immediately after the words "permanent resident" there shall be added the words "within the meaning of article 5(1)(d)".

Amendment of article 328M of the Code.

19. Immediately after sub-article (2) of article 328O of the Code there shall be added the following new sub-article:

Amendment of article 328O of the Code.

"(3) For the purposes of this article, the phrase "permanent resident" shall have the same meaning assigned to it by article 5(1)(d)."

20. In paragraph (b) of sub-article (2) of article 337A of the Code immediately after the words "permanent resident" there shall be added the words "within the meaning of article 5(1)(d)".

Amendment of article 337A of the Code.

21. Sub-article (1) of article 337B of the Code shall be amended as follows:

Amendment of article 337B of the Code.

(a) in the definition "computer data", for the words "processing in a computer system", there shall be substituted the words "processing in an information system or in a computer system";

(b) immediately after the definition "function" there shall be added the following new definition:

"information system" means a device or group of inter-connected or related devices, one or more of which, pursuant to a programme, automatically processes computer data, as well as computer data stored, processed, retrieved or transmitted by that device or group of devices for the purposes of its or their operation, use, protection and maintenance;"

22. Sub-article (1) of article 337C of the Code shall be amended as follows:

Amendment of article 337C of the Code.

(a) immediately after paragraph (e) thereof there shall be added the following new paragraph:

"(ee) hinders or interrupts the functioning of an information system by inputting computer data, by transmitting, damaging, deleting, deteriorating, altering or suppressing such data, or by rendering such data inaccessible;"

(b) in paragraph (g) thereof immediately after the words "supporting documentation" there shall be added the words "or renders such data inaccessible";

(c) in paragraph (i) thereof immediately after the words "computer" there shall be added the following "or in any manner infringes any security measure to gain access without authorization to the whole or to any part of an information system";

(d) in paragraph (k) thereof for the words "from or within a computer system, including electromagnetic emissions from a computer system carrying such computer data;" there shall be substituted the words "from or within an information system or a computer system, including electromagnetic emissions from an information system or a computer system carrying such computer data;";

(e) in paragraph (l) thereof immediately after the words "(a) to (j)" there shall be added the following "or a computer password, access code, or similar data by which the whole or any part of an information system is capable of being accessed".

Amendment of
article 337F of
the Code.

23. Article 337F of the Code shall be amended as follows:

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

"(2) The penalty shall be increased to a fine (*multa*) of not less than five hundred euro (500) and not exceeding one hundred and fifty thousand euro (150,000) or to imprisonment for a term from twelve months to ten years, or to both such fine and imprisonment in each of the following cases where the offence:

(a) constitutes an act which is in any way detrimental to any function or activity of Government, or hampers, impairs or interrupts in any manner whatsoever the provision of any public service or utility, whether or not such service or utility is provided or operated by any Government entity;

(b) causes serious damage;

(c) is committed against a critical infrastructure facility information system;

(d) is committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/ 841JHA of 24 October 2008 on the fight against organised crime;

(e) is committed through the misuse of personal data of another person, with the aim of gaining the trust of a third party, thereby causing prejudice to the rightful identity owner:

Provided that where a person is found guilty of an offence against this sub-article for a second or subsequent time, the minimum of the penalty for such an offence shall not be less than five thousand euro (5,000):

Provided further that in this article "infrastructure facility" shall have the same meaning assigned to it by article 314A(4).";

(b) in sub-article (5) thereof, immediately after the words "in any way" there shall be added the words "incites,".

24. In sub-article (1) of article 337H of the Code for the words "208B(5) and 248E(4)" there shall be substituted the words "208B(5), 248E(4) and 248E(4A)".

Amendment of article 337H of the Code.

25. Article 370 of the Code shall be amended as follows:

Amendment of article 370 of the Code.

(a) in paragraph (b) of sub-article (1) thereof for the words "not exceeding six months" there shall be substituted the words "not exceeding two years";

(b) in paragraph (a) of sub-article (3) thereof for the words "exceeding six months but not exceeding ten years" there shall be substituted the words "exceeding two years but not exceeding twelve years";

(c) in paragraph (a) of sub-article (4) thereof for the words "exceeding six months but not exceeding four years" there shall be substituted the words "exceeding two years but not exceeding six years".

26. Article 392A of the Code shall be amended as follows:

Amendment of article 392A of the Code

(a) in sub-article (1) thereof, for the words "ten years" there shall be substituted the words "twelve years";

(b) sub-articles (6) and (7) thereof shall be renumbered as sub-articles (7) and (8); and

(c) immediately after sub-article (5) thereof there shall be added the following new sub-article:

"(6) In pronouncing judgment the court shall not take into consideration any agreement on the sentence to be awarded which is not made in accordance with sub-article (5)."

Amendment of article 392B of the Code.

27. Article 392B of the Code shall be amended as follows:

(a) in sub-article (1) thereof, for the words "ten years" there shall be substituted the words "twelve years";

(b) in sub-article (2) thereof, for the words "shall declare that the indictment presented" there shall be substituted the words "shall declare that the charge presented".

Amendment of article 435AA of the Code.

28. In sub-article (1) of article 435AA of the Code for the words "period the banking operations" there shall be substituted the words "period the transactions or banking operations".

Amendment of article 435BA of the Code.

29. In sub-article (1) of article 435BA of the Code for the words "monitoring the banking operations" there shall be substituted the words "monitoring the transactions or banking operations".

Amendment of article 435D of the Code.

30. In sub-article (1) of article 435D of the Code for the words "convicted of a relevant offence" there shall be substituted the words "described in the order".

Amendment of article 500 of the Code.

31. In sub-article (3) of article 500 of the Code, for the words "On any appeal against all acquittal, whether in respect of the whole or part of the indictment, the Court of Criminal Appeal shall allow an appeal by the Attorney General if it considers that there has been an irregularity during the proceedings, or a wrong interpretation or application of the law," there shall be substituted the words "The Court of Criminal Appeal shall allow an appeal by the Attorney General if it considers that there has been a grave irregularity during the proceedings, or that the judgement is clearly the result of a manifest misinterpretation or of a manifestly wrong application of the law,".

Amendment of article 520 of the Code.

32. In paragraph (b) of sub-article (1) of article 520 of the Code for the words "articles 98" there shall be substituted the words "articles 97".

Amendment of article 534A of the Code.

33. In the proviso to article 534A of the Code for the words "extradition proceedings." there shall be substituted the words

"extradition proceedings:" and immediately thereafter there shall be added the following new proviso:

"Provided further that the provisions of this Title shall also apply to a person other than a suspect or an accused person who, in the course of questioning by the police or by another law enforcement authority, becomes a suspect or an accused person."

34. Sub-article (2) of article 579 of the Code shall be amended as follows: Amendment of article 579 of the Code.

(a) for the words "not exceeding six months," there shall be substituted the words "from four months to two years,";

(b) for the words "may be" there shall be substituted the words "shall be".

35. Immediately after article 699 of the Code, there shall be added the following new article: Addition of new article to the Code.

"Asset Recovery Bureau.

700. (1) The Minister may, by regulations, provide for the setting up of an Office to be known as the Asset Recovery Bureau, to provide for its structure, powers, distribution of duties, liability for damages, administrative and operational procedures including internal proceedings, the legal and judicial representation of the Office, its funding and anything ancillary or incidental thereto.

(2) The Office, shall be a body corporate having a distinct legal personality and may also be established as a Government Agency. The Office shall be capable of entering into contracts, of concluding memoranda of understanding or other agreements with any foreign body, authority or agency, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act including the borrowing of money.

(3) The Minister may by regulations further provide for the functions and powers of the Office which shall be responsible for the tracing, identification, freezing, confiscation and management of assets and property related, directly and indirectly, to criminal activity with a view to combating crime and for this purpose may authorise the Office to exercise any such powers as may be exercised by the Commissioner of Police, by the Commissioner for Revenue or any other public authority established by law.

(4) The Minister may by virtue of the said regulations direct that this Code or any other law shall have effect in relation to the functions, powers and operations of the Office and its officers and staff subject to such conditions, exceptions, adaptations or modifications as may be specified in the said regulations.

(5) Without prejudice to the generality of the foregoing the Minister may make regulations for anything incidental, consequential or ancillary to the matters provided in this article.

(6) For purposes of this article:

Cap. 164. "Commissioner of Police" shall have the meaning assigned to it under the Police Act;

Cap. 517. "Commissioner for Revenue" shall have the meaning assigned to it under the Commissioner for Revenue Act.

Consequential amendments to the Medical and Kindred Professions Ordinance. Cap. 31.

36. Article 120A of the Medical and Kindred Professions Ordinance shall be amended as follows:

(a) in paragraph (b) of sub-article (2E) thereof for the words "conclusion of the inquiry demand," there shall be substituted the words "conclusion of the inquiry or within seven days from the date on which the accused is served with the bill of indictment, demand";

(b) in the second proviso to paragraph (b) of sub-article (2E) thereof for the words "within one month from the said date." there shall be substituted the words "by not later than the 30th April 2015:" and immediately after the said second proviso thereof there shall be added the following new paragraph:

"For the purposes of this sub-article the words "the conclusion of the inquiry" include any conclusion of an inquiry

referred to in article 407 of the Criminal Code".;

(c) immediately after sub-article (2F) thereof there shall be added the following new sub-article:

"(2G)Where it is established that an offence under this Ordinance was committed by an officer of a body corporate as is referred to in article 121D of the Criminal Code or by a person having a power of representation or having such authority as is referred to in that article and the offence was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this Ordinance be deemed to be vested with the legal representation of the same body corporate which shall be liable to a fine (*multa*) not exceeding two million and five hundred euro (2,500,000):

Provided that where legal representation no longer vests in the said person, for purposes of this article, legal representation shall vest in the person occupying the office in his stead or in such person as is referred to in that article."

37. (1) The Dangerous Drugs Ordinance shall be amended as follows:

Consequential amendments to the Dangerous Drugs Ordinance. Cap. 101

(a) in paragraph (b) of sub-article (2A) of article 22 thereof for the words "conclusion of the inquiry," there shall be substituted the words "conclusion of the inquiry or within seven days from the date on which the accused is served with the bill of indictment,"; and in the second proviso thereof for the words "within one month from the said date." there shall be substituted by the words "by not later than the 30th April 2015:" and immediately after the said second proviso there shall be added the following new paragraph:

"For the purposes of this sub-article the words "the conclusion of the inquiry" include any conclusion of an inquiry referred to in article 407 of the Criminal Code".;

(b) immediately after sub-article (2B) of article 22 thereof there shall be added the following new sub-article:

"(2C)Where it is established that an offence under this Ordinance was committed by an officer of a body corporate as is referred to in article 121D of the Criminal Code or by a person having a power of representation or having such authority as is referred to in that article and the

offence was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this Ordinance be deemed to be vested with the legal representation of the same body corporate which shall be liable to a fine (*multa*) not exceeding two million and five hundred euro (2,500,000):

Provided that where legal representation no longer vests in the said person, for purposes of this article, legal representation shall vest in the person occupying the office in his stead or in such person as is referred to in that article."; and

(c) in article 27 thereof for the words "twenty days" wherever they occur, there shall be substituted by the words "thirty days".

38. (1) The Prevention of Money Laundering Act shall be amended as follows:

Consequential amendments to the Prevention of Money Laundering Act. Cap. 373.

(a) in sub-article (1) of article 3 of thereof for the words "not exceeding two million and three hundred and twenty-nine thousand and three hundred and seventy-three euro and forty cents (2,329,373.40), or to imprisonment for a period not exceeding fourteen years," there shall be substituted the words "not exceeding two million and five hundred euro (2,500,000), or to imprisonment for a period not exceeding eighteen years,";

(b) in sub-article (2A)(a)(i) of article 3 of thereof, for the words "not less than three years but not exceeding fourteen years, or to a fine (*multa*) of not less than twenty-three thousand two hundred and ninety-three euro and seventy-three cents (23,293.73) but not exceeding two million three hundred and twenty-nine thousand three hundred and seventy-three euro and forty cents (2,329,373.40)," there shall be substituted the words "not less than four years but not exceeding eighteen years, or to a fine (*multa*) of not less than fifty thousand euro (50,000) but not exceeding two million and five hundred euro (2,500,000),";

(c) in sub-article (2A)(a)(ii) of article 3 of thereof, for the words "not less than six months but not exceeding nine years, or to a fine (*multa*) of not less than two thousand three hundred and twenty-nine euro and thirty-seven cents (2,329.37) but not exceeding one hundred and sixteen thousand four hundred and sixty-eight euro and sixty-seven cents (116,468.67)," there shall be substituted the words "not less than twelve months but not exceeding nine years, or to a fine (*multa*)

of not less than twenty thousand euro (20,000) but not exceeding two hundred and fifty thousand euro (250,000),";

(d) in sub-article (2A)(a)(ii)(ii) of article 3 of thereof, for the words "the inquiry, demand" there shall be substituted the words "inquiry or within seven days from the date on which the accused is served with the bill of indictment, demand,";

(e) sub-article (4) of article 3 of thereof shall be substituted by the following new sub-article:

"(4) Where it is established that an offence of money laundering under this Act was committed by an officer of a body corporate as is referred to in article 121D of the Criminal Code or by a person having a power of representation or having such authority as is referred to in that article and the offence was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this Act be deemed to be vested with the legal representation of the same body corporate which shall be liable to the punishment laid down in sub-article (1):

Provided that where legal representation no longer vest in the said person, for purposes of this article, legal representation shall vest in the person occupying the office in his stead or in such person as is referred to in that article."

(f) article 11 thereof shall be amended as follows:

(a) in sub-article (1) thereof for the words "convicted of a relevant offence" there shall be substituted the words "described in the order"; and

(b) sub-article (3) thereof shall be deleted.

Objects and reasons

The objects and reasons of this Bill are to further implement Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems, to increase the competence of the Court of Magistrates and to establish the Asset Recovery Bureau. The Bill also provides for the consequential amendment of other laws.