

## ABBOZZ TA' LIĠI msejjah

*ATT biex jemenda l-Kodiċi Kriminali.*

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 huwa l-Att tal-2013 li jemenda l-Kodiċi Kriminali (Emenda Nru. 2), 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.** L-artikolu 248A tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 248A tal-Kodiċi.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "jista', meta jinsab ħati, jeħel il-piena ta' prigunerija minn sentejn sa disa' snin" għandhom jidhlu l-kliem "jeħel, meta jinsab ħati, il-piena ta' prigunerija minn erbgħa sa tnax-il sena";

(b) fil-paragrafu (ċ) tas-subartikolu (1) tiegħu, minnufih wara l-kliem "fl-iskjavitu" għandhom jidhlu l-kliem "jew xogħol infurzat";

(ċ) fil-paragrafu (d) tas-subartikolu (2) tiegħu, il-kliem "persuna oħra." għandhom jiġu sostitwiti bil-kliem "persuna oħra:" u minnufih wara għandu jidher il-paragrafu ġdid li ġej:

"(e) abbuż ta' poter jew ta' pożizzjoni ta' vulnerabbiltà:

Iżda f'dan il-paragrafu "pożizzjoni ta' vulnerabbiltà" tfisser sitwazzjoni li fiha persuna kkonċernata ma jkollhiex alternattiva reali jew aċċettabbli ħlief li tissottometti ruħha għall-abbuż involut.";

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(d) minnufih wara s-subartikolu (2) tiegħu għandu jiżdied is-subparagrafu ġdid li ġej:

"(3) Il-kunsens ta' vittma ta' traffikar jew ta' sfruttament, kemm jekk maħsub jew fattwali, ma jkunx relevanti fejn kwalunkwe mezz kif stabbilit fis-subartikolu (2) ikun ġie użat".

Emenda tal-artikolu 248B tal-Kodiċi.

**3.** Fl-artikolu 248B tal-Kodiċi, minnufih wara l-kliem "materjal pornografiku" għandhom jidhlu l-kliem "jew forom oħra ta' sfruttament sesswali".

Emenda tal-artikolu 248Ċ tal-Kodiċi.

**4.** Fl-artikolu 248Ċ tal-Kodiċi, minflok il-kliem "jeħel, meta jinsab ħati, il-piena ta' priġunerija għal żmien minn erba' sa tnax-il sena" għandhom jidhlu l-kliem "jeħel, meta jinsab ħati, il-piena ta' priġunerija minn sitt snin sa tnax-il sena".

Emenda tal-artikolu 248E tal-Kodiċi.

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

(a) fis-subartikolu tiegħu, il-kliem "jkun hemm bdil ta' kontroll" għandhom jiġu sostitwiti bil-kliem "jkun hemm bdil jew trasferiment ta' kontroll";

(b) fis-subartikolu (2)(a) tiegħu, il-kliem "ma' vjolenza" għandhom jiġu sostitwiti bil-kliem "ma' vjolenza, jew tiġi kkawżata offiża gravi fuq il-persuna" u l-kliem "tal-artikolu 204D(2)" fil-paragrafu (e) tiegħu għandhom jiġu sostitwiti bil-kliem "tal-artikolu 208AĊ(2)";

(ċ) fis-subartikolu (4) tiegħu, minflok il-kliem "li jista' jeħel il-hlas ta' multa ta' mhux inqas minn erbat elef, sitt mija u tmienja u hamsin euro u hamsa u sebgħin ċenteżmu (4,658.75) u mhux iżjed minn miljun u mija u erbgħa u sittin elf u sitt mija u tmenin euro u sebgħin ċenteżmu (1,164,686.70)" għandhom jiġu sostitwiti l-kliem "li jeħel multa ta' mhux inqas minn għaxart elef euro (€10,000) u mhux iżjed minn żewġ miljun euro (€2,000,000)";

(d) minnufih wara s-subartikolu (4) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(4A) Meta r-reat jitwettaq għall-benefiċċju ta', fl-intier tiegħu jew f'parti minnu, korp magħqud minn persuna li jkollha s-setgħa li tirrappreżenta dak il-korp magħqud, l-awtorità li tiegħu deċiżjonijiet f'isem il-korp magħqud, jew awtorità li twettaq kontroll fuq il-korp magħqud, il-persuna guridika tista' tkun soġġetta għal:

(i) esklużjoni milli tkun intitolata għall-benefiċċji jew għajnuna pubbliċi;

(ii) l-għeluq temporanju jew permanenti mill-eżerċizzju tal-attivitajiet kummerċjali;

(iii) it-tqegħid taħt superviżjoni ġudizzjarja;

(iv) stralċ obligatorju; jew

(v) l-għeluq temporanju jew permanenti ta' xi stabbiliment.";

(e) is-subartikolu (5) tiegħu għandu jġi sostitwit bis-subartikolu ġdid li ġej:

"(5) Mingħajr ħsara għad-disposizzjonijiet tal-artikolu 5, il-qrati Maltin għandu jkollhom ġurisdizzjoni fuq l-imsemmijin reati meta:

(a) parti biss mill-azzjoni li tagħti lok għall-esekuzzjoni tar-reat tkun twettqet f'Malta; jew

(b) il-ħati jkun ċittadin Malti jew residenti permanenti f'Malta jew ir-reat ġie mwettaq għall-benefiċċju ta' korp ġuridiku reġistrat f'Malta; jew

(c) ir-reat twettaq fuq ċittadin Malti jew residenti permanenti f'Malta.";

(f) minnufih wara s-subartikolu (7) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

Kap. 63. "(8) Id-disposizzjonijiet tal-artikoli 13 u 14 tal-Ordinanza tal-Ordinanza dwar il-Qirda tal-Kummerċ fil-Prostituzzjoni għandhom, *mutatis mutandis*, japplikaw.

(9) Minkejja kull disposizzjoni oħra ta' dan il-Kodiċi jew ta' xi liġi oħra, il-perjodu ta' preskrizzjoni għandu jibda' mill-ġurnata meta l-vittma tkun tal-età."

**6.** Minnufih wara l-artikolu 248E tal-Kodiċi għandhom jiżdiedu l-artikoli ġodda li ġejjin:

Żieda ta' artikoli ġodda mal-Kodiċi.

"Għajnuna u assistenza.

248F(1). Kull min jgħin, jassisti jew jinstiga xi reat taħt dan is-subtitolu jkun ħati ta' reat u jeħel meta jinstab ħati, il-piena stabbilita għar-reat mghejjun, assistit jew instigat.

(2) Kull persuna li twettaq jew tagħmel użu mis-servizzi jew xogħol kif imsemmija fl-artikoli 248A sa 248D, it-tnejn inklużi, meta tkun taf li l-persuna li tipprovdi s-servizz giet ittrafikata fi ħdan it-tifsira tal-artikolu 248E(1), tkun ħatja ta' reat u teħel, meta tinstab ħatja, prigunerija għal perjodu bejn tmintax-il xhar u ħames snin.

Ċerti disposizzjonijiet ma japplikawx. Kap. 446

248G. Id-disposizzjonijiet tal-artikoli 21 u 28 ta' dan il-Kodiċi u d-disposizzjonijiet tal-Att dwar il-*Probation* ma għandhomx japplikaw fir-rigward ta' xi persuna li tinstab ħatja ta' reat taħt dan is-subtitolu."

Emenda  
konsegwenzjal  
tal-L.S. 9.12.

7. Fit-tifsira "delitt volontarju bi vjolenza" fir-regolament 2 tar-Regolamenti dwar Skema għal Kumpens għal Ħsara kkawżata mill-Kriminalità, il-kliem "211 u 216 tal-Kodiċi Kriminali" għandhom jiġu sostitwiti bil-kliem "211 u 216, 248A-248D, it-tnejn inklużi, tal-Kodiċi Kriminali".

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### Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma li jipprovdu għal pieni u multi aktar horox kontra t-traffikanti tal-persuni, filwaqt li jiġu ntrodotti reati godda, bħar-reat li xjentement ikun qed isir użu mis-servizzi ta' persuna traffikata. Dawn l-emendi, qegħdin b'hekk, iffittxu li jiskoraġixxu kemm it-twettiq ta' traffikar ta' persuni kif ukoll l-użu tas-servizz ta' persuni traffikati.

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**A BILL  
entitled**

*AN ACT to amend the Criminal Code.*

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 No. 2) Act, 2013, 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. Article 248A of the Code shall be amended as follows:

Amendment of  
article 248A of  
the Code.

(a) in sub-article (1) thereof, for the words "shall, on conviction, be liable to the punishment of imprisonment for a term from two to nine years" there shall be substituted the words "shall, on conviction, be liable to the punishment of imprisonment from four to twelve years";

(b) in paragraph (c) of sub-article (1) thereof, immediately after the word "servitude" there shall be added the words "or forced labour";

(c) in paragraph (d) of sub-article (2) thereof, for the words "another person." there shall be substituted the words "another person;" and immediately thereafter there shall be added the following new paragraph:

"(e) abuse of power or of a position of vulnerability:

Provided that in this paragraph "position of vulnerability" means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.";

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

"(3) The consent of a victim of trafficking to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in sub-article (2) has been used."

Amendment of article 248B of the Code.

**3.** In article 248B of the Code immediately after the words "pornographic material" there shall be added the words "or other forms of sexual exploitation".

Amendment of article 248C of the Code.

**4.** In article 248C of the Code, for the words "shall on conviction be liable to the punishment of imprisonment for a term from four to twelve years" there shall be substituted the words "shall on conviction be liable to the punishment of imprisonment for a term from six to twelve years".

Amendment of article 248E of the Code.

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

(a) in sub-article (1) thereof, for the words "exchange of control" there shall be substituted the words "exchange or transfer of control";

(b) in sub-article (2)(a) thereof for the words "by violence" there shall be substituted the words "by violence, or has caused grievous bodily harm" and the words "article 204D(2)" in paragraph (e) thereof shall be substituted by the words "article 208A(2)";

(c) in sub-article (4) thereof, for the words "shall be liable to the payment of a fine (*multa*) of not less than four thousand and six hundred and fifty-eight euro and seventy-five cents (4,658.75) and not more than one million and one hundred and sixty-four thousand and six hundred and eighty-six euro and seventy cents (1,164,686.70)" there shall be substituted the words "shall be liable to the payment of a fine (*multa*) of not less than ten thousand euro (€10,000) and not exceeding two million euro (€2,000,000)";

(d) immediately after sub-article (4) thereof there shall be added the following new sub-article:

"(4A) Whenever the offence is committed for the benefit, in part or in whole, of a body corporate by a person who has the power of representation of the body corporate, authority to take decisions on behalf of the body corporate, or authority to exercise control of the body corporate, the legal person may be subject to:

- (i) exclusion from entitlement to public benefits or aid;
- (ii) temporary or permanent disqualification from the practice of commercial activities;
- (iii) placing under judicial supervision;
- (iv) judicial winding up; or
- (v) temporary or permanent closure of establishments.";

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

"(5) Without prejudice to the provisions of article 5, the Maltese courts shall also have jurisdiction over the said offences where:

- (a) only part of the action giving execution to the offence took place in Malta; or
- (b) the offender is a Maltese national or permanent resident in Malta or the offence was committed for the benefit of a body corporate registered in Malta; or
- (c) the offence was committed against a Maltese national or permanent resident in Malta.";

(f) immediately after sub-article (7) thereof, there shall be added the following new sub-articles:

Cap. 63.                   "(8) The provisions of articles 13 and 14 of the White Slave Traffic (Suppression) Ordinance, shall, *mutatis mutandis*, apply.

(9) Notwithstanding any other provision of this Code or of any other law, the period of prescription shall run from the day on which the victim attains the age of majority."

**6.** Immediately after article 248E of the Code there shall be

Addition of new articles to the Code.

added the following new articles:

"Aiding and abetting.

248F(1). Whosoever aids, abets or instigates any offence under this sub-title shall be guilty of an offence and shall be liable on conviction to the punishment laid down for the offence aided, abetted or instigated.

(2) Any person who engages in or makes use of the services or labour as referred to in articles 248A to 248D, both inclusive, in the knowledge that the person providing the service has been trafficked within the meaning of article 248E(1), shall be guilty of an offence and liable, on conviction, to imprisonment for a term of eighteen months to five years.

Non-applicability of provisions. Cap. 446.

248G. The provisions of articles 21 and 28A of this Code and the provisions of the Probation Act shall not apply in respect of any person convicted of an offence under this sub-title."

Consequential amendment to S.L. 9.12.

7. In the definition of "violent international crime" in regulation 2 of the Criminal Injuries Compensation Scheme Regulations, the words "211 and 216 of the Criminal Code" shall be substituted by the words "211 and 216, 248A-248D, both inclusive, of the Criminal Code".

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### Objects and Reasons

The objects and reasons of this Bill are to provide for harsher penalties and fines against human traffickers, whilst introducing new offences, such as that of knowingly making use of the services of a trafficked person. These amendments, in so doing, seek to discourage both the commission of human trafficking as well as the use of the service of a trafficked person.

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