

*Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 21,189, 6 ta' Frar, 2024*

*Taqsim A*

## MALTA

### **ATT Nru V tal-2024**

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

**ATT sabiex ikompli jemenda l-Kodiċi Kriminali, Kap. 9 u sabiex jipprovdi għal materji li huma anċillari għalihom.**

### **ACT No. V of 2024**

AN ACT enacted by the Parliament of Malta.

**AN ACT to further amend the Criminal Code, Cap. 9 and to make provision with respect to matters ancillary thereto.**



Nagħti l-kunsens tiegħi.

(L.S.)

**GEORGE VELLA**  
**President**

6 ta' Frar, 2024

**ATT Nru V tal-2024**

*ATT sabiex ikompli jemenda l-Kodiċi Kriminali, Kap. 9 u sabiex jipprovd i għal materji li huma anċillari għalihom.*

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

**1.** (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2024 li jemenda l-Kodiċi Kriminali (Emenda Nru 2) u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Kriminali, hawn iżjed 'il quddiem imsejjaħ "il-Kodiċi".

Titolu fil-qosor  
u għan.  
Kap. 9.

(2) L-għan ta' dan l-Att hu li jittrasponi d-Direttiva 2011/92/UE tal-Parlament Ewropew u tal-Kunsill tat-13 ta' Diċembru 2011 dwar il-ġlieda kontra l-abbuż sesswali u l-isfruttament sesswali tat-tfal u l-pedopornografija, u li tissostitwixxi d-Deċiżjoni Kwadru 2004/68/ĠAI.

**2.** Fl-artikolu 21 tal-Kodiċi, il-kliem "mingħajr ħsara tad-dispożizzjonijiet tal-artikolu 7." għandhom jiġu sostitwiti bil-kliem "bla ħsara għad-dispożizzjonijiet tal-artikolu 7:" u minnufih wara għandu jiġi miżjud dan il-proviso ġdid li ġej:

Emenda tal-  
artikolu 21 tal-  
Kodiċi.

"Izda fejn persuna li kienet taħt it-tmintax (18)-il sena fiż-żmien meta twettaq ir-reat tkun instabet haġa ta' reat skont l-artikoli 204A, 204B, 208, 208A jew 208Ċ u l-qorti tkun sodisfatta li l-imsemmija persuna kienet vittma ta' abbuż sesswali u kienet imġiegħla twettaq l-imsemmi reat, il-qorti

tista', mas-sejba ta' htija, tiddeċiedi li ma timponi l-ebda piena fuq il-persuna misjuba hatja."

Żieda ta' artikolu ġdid fil-Kodiċi.

### 3. Minnufih wara l-artikolu 209A tal-Kodiċi għandu jiġi miżjud dan l-artikolu ġdid li ġej:

"L-awtorità kompetenti tista' tiddeċiedi li ma tistitwixxi proċeduri kriminali fil-konfront ta' vittmi li huma minuri jew l-eżenzjoni minn piena.

209B. Fil-każ ta' reati skont l-artikoli 204A, 204B, 208, 208A jew 208Ċ, l-awtorità kompetenti tista' tiddeċiedi li ma jiġux istitwiti proċeduri kriminali għal kwalunkwe mill-imsemmija reati fil-konfront ta' minuri fiż-żmien tat-twettiq tar-reat fejn l-imsemmija awtorità tkun sodisfatta li tali minuri kien vittma ta' abbuż sesswali u kien imġiegħel iwettaq ir-reat. Fil-każ li jiġu istitwiti l-imsemmija proċeduri kriminali, l-awtorità kompetenti tista' wkoll matul il-proċeduri kriminali titlob li kwalunkwe vittma li kien minuri kif intqal qabel ma għandux ikun soġġett għal piena meta jinstab hati u f'dak il-każ il-qorti għandha tilqa' l-imsemmija talba tal-awtorità."

Emenda tal-artikolu 346 tal-Kodiċi.

### 4. Minnufih wara s-subartikolu (3) tal-artikolu 346 tal-Kodiċi għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"Dikjarazzjonijiet minn xhieda vulnerabbli.

(4) Kwalunkwe minuri, jew vittma ta' reat sesswali, jew vittma jew xhud vulnerabbli għandu jkollhom l-imsemmija intervista u kwalunkwe dikjarazzjoni magħmula minnhom registrata b'mezzi awdjovizivi meta jiġu intervistati mill-pulizija matul investigazzjoni:

Iżda għall-finijiet ta' dan is-subartikolu, kwalunkwe intervista jew dikjarazzjoni registrata awdjovizwalment għandhom ikunu ammissibbli bħala xhieda fi kwalunkwe kawża quddiem qorti ta' ġudikatura kriminali dwar ir-reat li għalih tirreferi."

Emenda tal-artikolu 347A tal-Kodiċi.

### 5. Fl-artikolu 347A tal-Kodiċi, il-kliem "Bla ħsara għad-dispożizzjonijiet taż-żewġ artikoli li jiġu minnufih qabel" għandhom jiġu sostitwiti bil-kliem "Bla ħsara għad-dispożizzjonijiet tas-subartikoli (1), (2) u (3) tal-artikolu 346".

Emenda tal-artikolu 391 tal-Kodiċi.

### 6. Fis-subartikolu (3) tal-artikolu 391 tal-Kodiċi, il-kliem "taħt is-sittax-il sena" għandhom jiġu sostitwiti bil-kliem "taħt it-tmintax (18)-il sena".

Emenda tal-artikolu 646 tal-Kodiċi.

### 7. L-artikolu 646 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fit-tieni proviso għas-subartikolu (2) tiegħu, il-kliem "ikun minuri taħt is-sittax-il sena" għandhom jiġu sostitwiti bil-kliem "ikun minuri taħt it-tmintax (18)-il sena"; u

(b) minnufih wara s-subartikolu (3) tiegħu għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"(3A) Intervista jew dikjarazzjoni ta' minuri, ta' kwalunkwe vittma ta' reat sesswali, jew ta' kwalunkwe vittma jew xhud vulnerabbli magħmula skont is-subartikolu (4) tal-artikolu 346 registrata awdjoviżwalment għandhom ikunu ammissibbli bħala xhieda:

Iżda fejn il-persuna hekk intervistata jew li tagħmel id-dikjarazzjoni tagħti xhieda *viva voce* bħala xhud quddiem qorti matul kawża, l-imsemmija xhieda għandha tingħata permezz ta' vidjokonferenza minn post li ma jkunx l-awla fejn tkun qed tinstema' l-kawża u għandha tiġi registrata permezz ta' mezzi awdjoviżwali."

8. Is-subartikolu (1) tal-artikolu 55 tal-Att dwar il-Pulizija għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

Emenda  
konsegwenzjali  
għall-Att dwar  
il-Pulizija.  
Kap. 164.

"(1) Kwalunkwe minuri, jew vittma ta' reat sesswali, jew vittma jew xhud vulnerabbli għandu jkollhom l-imsemmija intervista u kwalunkwe dikjarazzjoni magħmula minnhom registrati b'mezzi awdjoviżivi meta jiġu intervistati mill-pulizija matul investigazzjoni:

Iżda għall-finijiet ta' dan is-subartikolu, kwalunkwe intervista jew dikjarazzjoni registrata permezz ta' mezzi awdjoviżivi għandhom ikunu ammissibbli bħala xhieda fi kwalunkwe kawża quddiem qorti ta' ġudikatura kriminali dwar ir-reat li għalih tirreferi u d-dispożizzjonijiet tas-subartikolu (3A) tal-artikolu 646 tal-Kodiċi Kriminali għandhom japplikaw għal xhieda *viva voce* mogħtija mill-imsemmija persuna matul il-kawża."

Kap. 9.

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 202 tal-31 ta' Jannar, 2024.

ANĠLU FARRUGIA  
*Speaker*

ELEANOR SCERRI  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

**GEORGE VELLA**  
**President**

6th February, 2024

**ACT No. V of 2024**

*AN ACT to further amend the Criminal Code, Cap. 9 and to make provision with respect to matters ancillary 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 No. 2) Act, 2024 and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code".

Short title and scope.

Cap. 9.

(2) The scope of this Act is to transpose Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

**2.** In article 21 of the Code, the words "saving the provisions of article 7." shall be substituted by the words "without prejudice to the provisions of article 7:" and immediately after there shall be added the following new proviso:

Amendment of article 21 of the Code.

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"Provided that where a person who was under eighteen (18) years of age at the time of the commission of the offence is convicted of an offence in accordance with articles 204A, 204B, 208, 208A or 208C and the court is satisfied that the said person was a victim of sexual abuse and was compelled to commit the said offence, the court may, upon conviction, decide not to impose any punishment on the person convicted."

Addition of new article to the Code.

**3.** Immediately after article 209A of the Code there shall be added the following new article:

"Competent authority may decide not to prosecute victims who are minors or exemption from punishment.

209B. In the case of offences in accordance with articles 204A, 204B, 208, 208A or 208C, the competent authority may decide not to institute criminal proceedings for any of the mentioned offences against a minor at the time of the commission of the offence where the said authority is satisfied that such minor was a victim of sexual abuse and was compelled to commit the offence. In the case when the said criminal proceedings are instituted, the competent authority may also in the course of the criminal proceedings request that any victim who is a minor as aforesaid shall not be subjected to punishment upon conviction and in such case the court shall uphold the said request of the authority."

Amendment of article 346 of the Code.

**4.** Immediately after sub-article (3) of article 346 of the Code there shall be added the following new sub-article:

"Statements by vulnerable witnesses.

(4) Any minor, or victim of a sexual offence, or vulnerable victim or witness shall have the said interview and any statement made by him recorded by audio-visual means when interviewed by the police in the course of an investigation:

Provided that for the purposes of this sub-article, any audio-visually recorded interview or statement shall be admissible as evidence in any trial before a court of criminal judicature concerning the offence to which it relates."

Amendment of article 347A of the Code.

**5.** In article 347A of the Code, the words "Without prejudice to the two preceding articles" shall be substituted by the words "Without prejudice to the provisions of sub-articles (1), (2) and (3) of article 346".

Amendment of article 391 of the Code.

**6.** In sub-article (3) of article 391 of the Code, the words "under the age of sixteen years" shall be substituted by the words "under the age of eighteen (18) years".

7. Article 646 of the Code shall be amended as follows:

Amendment of  
article 646 of  
the Code.

(a) in the second proviso to sub-article (2) thereof, the words "is a minor under sixteen years of age" shall be substituted by the words "is a minor under eighteen (18) years of age"; and

(b) immediately after sub-article (3) thereof there shall be added the following new sub-article:

"(3A) An audio-visually recorded interview or statement of a minor, of any victim of a sexual offence, or of any vulnerable victim or witness made in accordance with sub-article (4) of article 346 shall be admissible as evidence:

Provided that where the person so interviewed or who makes the statement gives evidence *viva voce* as a witness before a court during a trial, the said evidence shall be given by video conference from a place other than the courtroom where the trial is being held and shall be recorded by audio-visual means."

8. Sub-article (1) of article 55 of the Police Act shall be substituted by the following new sub-article:

Consequential  
amendment to  
the Police Act.  
Cap. 164.

"(1) Any minor, or victim of a sexual offence, or vulnerable victim or witness shall have the said interview and any statement made by them recorded by audio-visual means when interviewed by the police in the course of an investigation:

Provided that for the purposes of this sub-article, any audio-visually recorded interview or statement shall be admissible as evidence in any trial before a court of criminal judicature concerning the offence to which it relates and the provisions of sub-article (3A) of article 646 of the Criminal Code shall apply to *viva voce* evidence given by such person during the trial."

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Passed by the House of Representatives at Sitting No. 202 of the  
31st January, 2024.

ANĠLU FARRUGIA  
*Speaker*

ELEANOR SCERRI  
*Clerk of the House of Representatives*



