L.N. 47 of 2010

EXTRADITION ACT
(CAP. 276)

Extradition (Great Socialist People's Arab Jamahiriya) Order, 2010

IN exercise of the powers conferred by article 7 of the Extradition Act, the Minister for Justice and Home Affairs has made the following order:-

Citation and commencement.

1. (1) The title of this Order is the Extradition (Great Socialist People's Arab Jamahiriya) Order, 2010.

(2) This order shall be deemed to have come into force on the 18th December, 2009.

Interpretation.

2. In this Order, unless the context otherwise requires -

"the Minister" means the Minister responsible for justice;

"the relevant Act" means the Extradition Act;

"the relevant date" means the 18th December, 2009;

"the Treaty" means the Treaty between the Government of Malta and the Government of the Great Socialist People's Arab Jamahiriya, signed on the 25th July 2002, in Valletta, the terms of which are set out in the relative Treaty published in the Gazette dated the 11th December, 2009.

Designation for the purposes of article 6 of the relevant Act.

3. For the purposes of article 6 of the Extradition Act, the Minister has designated the Great Socialist People's Arab Jamahiriya.

Relationship between the Order and the relevant Act and transitory provisions.

4. The provisions of the relevant Act, save where otherwise expressly indicated, shall apply to requests received or made by Malta on or after the relevant date for the return of a fugitive criminal to or from the Great Socialist People's Arab Jamahiriya in pursuance of a request made under this Order, and the provisions of the relevant Act shall have effect in relation to the return under this Order of persons to, or in relation to persons returned under this Order from, the Great Socialist People's Arab Jamahiriya subject to such conditions, exceptions, adaptations or modifications as are specified in this Order.

Amends article 8 of the relevant Act.

5. For the purposes of this Order, article 8(1)(a) of the relevant Act shall apply as if for the words "under that law" therein there were substituted the words "under Maltese law and under that law".

Amends article 10 of the relevant Act.

6. For the purposes of this Order, article 10 of the relevant Act shall be amended as follows:

(a) in paragraph (c) of sub-article (1) thereof, for the words "or creed." there shall be substituted the words "or creed; or";

(b) immediately after paragraph (c) of sub-article (1) thereof, there shall be added the following new paragraph:

"(d) that there are serious reasons to believe that if returned, he may be subjected to a judicial process which substantively and procedurally does not conform with the fundamental principles of justice or which fails to guarantee the right of adequate defence."; and

(c) immediately after paragraph (b) of sub-article (3) thereof, there shall be inserted the following:

"(b *bis*) a differently denominated offence based on the same facts as the offence for which extradition was granted, provided that such offence is extraditable; or".

Amends article 11 of the relevant Act.

7. For the purposes of this Order, in sub-paragraph (g) of sub-article (2) of article 11 of the relevant Act, for the words "of Malta." there shall be substituted the words "of Malta;" and immediately thereafter there shall be added the following new paragraph:

"(h) where the punishment provided for the offence for which the return is being requested, is of a nature which is not applicable under Maltese law and the requesting State has not given an assurance accepted as sufficient by the Minister that such penalty will not be carried out.".

Amends article 23 of the relevant Act.

8. For the purposes of this Order, in sub-article (2) of article 23 of the relevant Act, for the words "death or escape" there shall be substituted the words "death, disappearance or escape".

Amends article 25 of the relevant Act.

9. For the purposes of this Order, immediately after paragraph (b) of sub-article (2) of article 25 of the relevant Act, there shall be inserted the following new paragraph:

"(b *bis*)a differently denominated offence based on the same facts as the offence for which extradition was granted, provided that such offence is extraditable; or".