VERŻJONI ELETTRONIKA

I assent.

(L.S.) GEORGE ABELA
President

6th December, 2013

ACT No. XVIII of 2013

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:-

Short title.

Cap. 9.

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".

Amendment of article 248A of the Code.

2. Article 248A of the Code shall be amended as follows:

(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.";

(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:

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

Cap. 63.

VERŻJONI ELETTRONIKA

(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.".

Addition of new articles to the Code.

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

VERŻJONI ELETTRONIKA

A 360

Passed by the House of Representatives at Sitting No. 99 of the 3rd December, 2013.

ANĠLU FARRUGIA

Speaker

RAYMOND SCICLUNA
Clerk to the House of Representatives