

I assent.

(L.S.)

GEORGE VELLA
President

23rd February, 2024

ACT No. X of 2024

AN ACT to further amend the Criminal Code, Cap. 9.

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. 4) Act, 2024 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 251F of the Code shall be substituted by the following

Substitution of
article 251F of
the Code.

new article:

"Enforced
sterilization.

251F.(1) Whosoever surgically removes or disables a minor person's reproductive organs, or an adult person's reproductive organs without that adult person's free and informed consent, leading to sterilization, shall be guilty of enforced sterilization and shall, unless the fact constitutes a more serious offence under any other law or any other provision of this Code, be liable, on conviction, to imprisonment for a term from five (5) years to nine (9) years, with the possibility of a fine (*multa*) of not less than eight thousand euro (€8,000) and not exceeding twenty thousand euro (€20,000).

(2) For the purposes of this article, "free and informed consent" shall:

(i) mean consent reflecting the will and preferences of an adult person, freely given directly by said adult person, in respect of a surgical procedure the adult person might undergo, which may lead to sterilization; and

(ii) be given after said adult person would have been provided with prior information, in respect of the purpose and nature of the procedure, as well as of its consequences, risks and alternative options thereto, in a manner that is appropriate, accessible and easy to understand for that adult person, including, as necessary, through non-conventional methods of communication and access to independent support from third parties; and

(iii) be able to be withdrawn at any moment prior to the procedure following its initially having been given, with said possibility having been likewise communicated to the adult person alongside the information indicated above:

Provided that if an adult person is unable to give free and informed consent in accordance with this article, whether due to a cause that is either temporary or long-term, no other person shall be able to substitute said adult person's free and informed consent for the purposes of this article:

Provided further that any surgical procedure performed on a minor person, and that leads to sterilization, shall be deemed to be enforced sterilization for the purposes of this article, except when said procedure is covered by the exception in the next proviso, and no other person, including a parent or legal guardian, shall be able to provide consent for such a procedure in the name of the minor person, other than when the exception mentioned would be applicable:

Provided further that no offence under this article shall be committed when sterilization shall result as a consequence of a medical intervention, which:

(i) is not performed with the purpose of achieving enforced sterilization in terms of this article; and

(ii) would have been otherwise deemed medically necessary by one (1) or more medical professionals, in accordance with the applicable standard of care, with such standard following established medical practice, and with such medical intervention consisting of one (1) or more procedures, and which has the aim of saving or preserving the life of an adult person or of a minor person, in the immediate or longer term; and

(iii) follows established medical practice with regard to the granting of informed consent by the patient in terms of other legislation.

(3) Whosoever is an accomplice to the offence referred to in sub-article (1), by aiding, abetting or procuring the enforced sterilization of any minor person or adult person shall, unless the act constitutes a more serious offence under any other law or any other provision of this Code, be liable, on conviction, to the punishments laid down in sub-articles (1) and (4) of this article.

(4) The punishment prescribed for any of the offences referred to in the preceding sub-articles shall be increased by one (1) degree, when the commission of such crimes involves also the use of force, deceit, fraud, bribery, false pretences, coercion or threats.

A 108

Cap. 12. (5) In addition to any punishment to which the person convicted of such an offence may be sentenced, the Court may also order such person to pay the injured party such sum of money as may be determined by the said Court as compensation, in terms of article 15A, as compensation for the harm, including moral and, or psychological harm caused to such party by, or by means of the offence. The order shall constitute an executive title for all intents and purposes of the Code of Organization and Civil Procedure."

Passed by the House of Representatives at Sitting No. 208 of the 20th February, 2024.

ANĠLU FARRUGIA
Speaker

ELEANOR SCERRI
Clerk of the House of Representatives

