

ABBOZZ TA' LIĠI
msejjah

Att biex jemenda l-Att dwar il-Probation.

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

1. It-titolu fil-qosor ta' dan l-Att hu Att tal-2012 li jemenda l-Att dwar il-*Probation*, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar il-*Probation*, hawnhekk iżjed 'il quddiem f'dan l-Att imsejjah "l-Att principali".

Titolu fil-qosor.
Kap. 446.

2. L-artikolu 2 tal-Att għandu jiġi emendat kif ġej:

Emenda tal-
artikolu 2 tal-
Att principali.

(a) it-tifsira "awtorità kompetenti" għandha tiġi mhassra;

(b) minnufih wara t-tifsira hekk imhassra "awtorità kompetenti" għandha tiżdied din it-tifsira ġdida li ġejja:

" "iċ-ċertifikat" tfisser il-forma, kif hemm fl-Anness I tad-Deċiżjoni Qafas, li tirreproduċi dettalji li jstabbilixxu l-informazzjoni meħtieġa bl-istess forma;"

(ċ) minnufih wara t-tifsira "Direttur" għandha tiżdied din it-tifsira ġdida li ġejja:

" "imġieba skedata" hija mġieba fil-lista ta' mġieba mnizzla fl-Iskeda;"

(d) it-tifsira "Stat ta' eżekuzzjoni" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Stat ta' eżekuzzjoni" tfisser l-Istat Membru li lilu tkun

C 454

inbagħtet sanzjoni komunitarja għall-finijiet ta' eżekuzzjoni;".

Emenda tal-artikolu 23 tal-Att prinċipali.

3. Fis-subartikolu (2) tal-artikolu 23 tal-Att prinċipali, minflok il-kliem "jew il-qorti" għandhom jiġu sostitwiti l-kliem "il-qorti".

Sostituzzjoni tal-artikolu 26 tal-Att prinċipali.

4. L-artikolu 26 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Awtoritajiet nominati.

26. (1) Id-dispożizzjonijiet tal-artikoli 27 sa 34 għandhom ikunu limitati għat-trasmissjoni u l-eżekuzzjoni ta' sentenzi li jimponu sanzjonijiet komunitarji bejn Malta u Stat Membru tal-Unjoni Ewropea, u għandhom japplikaw għal sentenzi riċevuti f'Malta wara s-16 ta' Diċembru, 2008.

(2) Għall-finijiet tal-artikoli 26 sa 34, it-tnejn inkluzi:

(a) l-Avukat Ġenerali għandu jkun kompetenti li jirċievi sentenza li timponi sanzjoni komunitarja maħruġa fl-Istat emittenti u li jittrasmetti lill-Istat ta' eżekuzzjoni s-sentenza li timponi sanzjoni komunitarja maħruġa f'Malta mill-qrati ta' kompetenza kriminali;

(b) il-qrati ta' kompetenza kriminali għandhom ikunu kompetenti li joħorgu sentenza li timponi sanzjoni komunitarja;

(ċ) "sentenza" għandha tfisser deċiżjoni finali jew ordni ta' qorti li tistabbilixxi li persuna naturali tkun kkommettiet reat kriminali u li timponi sanzjoni komunitarja."

Emenda tal-artikolu 27 tal-Att prinċipali.

5. L-artikolu 27 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu għandu jiġi mħassar; u

(b) is-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bħala l-artikolu sħiħ u minflok il-kliem "mill-awtorità kompetenti:" tiegħu, għandhom jiġu sostitwiti l-kliem "minn qorti ta' kompetenza kriminali:".

Emenda tal-artikolu 28 tal-Att prinċipali.

6. L-artikolu 28 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "l-awtorità kompetenti għandha," għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali għandha,";

(b) fil-proviso tas-subartikolu (1) tiegħu, minflok il-kliem "l-awtorità kompetenti" għandhom jiġu sostitwiti l-kliem "l-qorti ta' kompetenza kriminali għandha";

(ċ) minnufih wara s-subartikolu (1) tiegħu, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(1A) Il-qorti ta' kompetenza kriminali tista', fuq talba tal-persuna sentenzjata, tibgħat sentenza li timponi sanzjoni komunitarja lill-awtorità kompetenti ta' Stat Membru minbarra dak li fih il-persuna sentenzjata hija legalment u ordinarjament residenti, jekk l-awtorità tal-aħħar tkun tat il-kunsens li tintbagħat dik s-sentenza.";

(d) fis-subartikolu (2) tiegħu, minflok il-kliem "b'ċertifikat, fil-forma li tiġi preskritta mill-Ministru permezz ta' regolamenti magħmulin taħt dan l-artikolu." għandhom jiġu sostitwiti l-kliem "b'ċertifikat li għandu jkun iffirmit u l-kontentur tiegħi ċċertifikat bħala preċiż mill-Avukat Ġenerali.";

(e) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Ladarba sanzjoni komunitarja tkun ntbagħtet lil Stat ta' eżekuzzjoni taħt dan l-artikolu u l-imsemmi Stat ikun informa lill-qorti ta' kompetenza kriminali jew lill-Avukat Ġenerali, skont il-każ, illi hu irrikonoxxa s-sanzjoni komunitarja li tkun ntbagħtitlu, il-qorti ta' kompetenza kriminali ma għandux ikollha aktar il-kompetenza fir-rigward tas-sorveljanza tas-sanzjoni komunitarja imposta u lanqas biex tiegħu xi deċiżjoniet sussegwenti msemmija fl-artikolu 31(1) sakemm ma sseħħ xi waħda milli ġejjin:

(a) il-persuna sentenzjata taħrab jew ma tkunx iżjed residenti fl-Istat ta' eżekuzzjoni; jew

(b) proċeduri kriminali godda jkunu nbdeu kontra l-persuna sentenzjata quddiem il-qorti ta' Malta.";

(f) fis-subartikolu (4) tiegħu, minflok il-kliem "tmur lura għand l-awtorità kompetenti:" għandhom jiġu sostitwiti l-kliem "tmur lura għand il-qorti ta' kompetenza kriminali, skont il-każ:"; u

(g) fis-subartikolu (4)(a) tiegħu, minflok il-kliem "hekk kif l-awtorità kompetenti tkun innotifikat" għandhom jiġu sostitwiti l-kliem "hekk kif l-qorti ta' kompetenza kriminali jew l-Avukat Ġenerali fuq talba mill-imsemmija qorti, ikun innotifika".

C 456

Żjieda ta' artikoli ġodda mal-Att prinċipali.

7. Minnufih wara l-artikolu 28 tal-Att prinċipali għandhom jiżdienu dawn l-artikoli ġodda li ġejjin:

"Kontenut taċ-ċertifikati.

28A. Sentenza trasmessa skont l-artikolu 28, għandu jkun fiha:

(a) stqarrija li s-sentenza hija dwar:

(i) imġiba li hija reat skedat:

Izda li f'dawk il-każijiet m'għandux ikun hemm verifika jekk l-imġiba hijiex reat kriminali f'Malta; jew

(ii) imġieba li tkun tikkonsisti f'reat taht il-liġi ta' Malta li jekk tkun seħhet f'Malta:

Izda li d-deskrizzjoni tar-reat m'għandiex titqies bhala materjali jekk r-reat taht il-liġi ta' Malta u l-liġi tal-Istat emittenti huma fis-sustanza tal-istess xorta; u

(b) informazzjoni li tindika x-xorta u d-dewmien tal-miżuri ta' sorveljanza.

Mod ta' trasmissjoni.

28B. (1) Sentenza li timponi sanzjoni komunitarja għandha tiġi trasmessa maċ-ċertifikat li jkun fih l-informazzjoni preskritta fih, b'kull mezz kapaci li jipproduci prova bil-miktub taht il-kondizzjonijiet li jippermettu li tiġi aċċertata l-awtentiċita' tagħha.

(2) Jekk hekk mitlub mill-Istat ta' eżekuzzjoni, is-sentenza oriġinali li timponi sanzjoni komunitarja jew kopja ċertifikata tagħha, u ċ-ċertifikat oriġinali, għandhom jintbagħtu lill-Istat ta' eżekuzzjoni."

Sostituzzjoni tal-artikolu 29 tal-Att prinċipali.

8. L-artikolu 29 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Iċ-ċertifikat tal-Avukat Ġenerali.

29. (1) Meta l-Avukat Ġenerali jirċievi sanzjoni komunitarja skont l-artikolu 26(1)(a), l-Avukat Ġenerali għandu, fid-diskrezzjoni tiegħu individwali u soġġett għad-dispożizzjonijiet tal-artikolu 30, joħroġ ċertifikat b'effett li s-sentenza hija waħda minn dawk msemmija fid-Deċiżjoni Qafas u dak iċ-ċertifikat għandu jkun prova konkluziva tal-kontenut tiegħu.

(2) Minghajr il-htieġa ta' xi awtorita' oħra hlief dawk mogħtija b'dan l-artikolu, is-sentenza, flimkien maċ-ċertifikat msemmi fis-subartikolu (1), għandha tintbagħat lill-qorti ta' kompetenza kriminali għall-eżekuzzjoni skont l-artikolu 29A."

9. Minnufih wara l-artikolu 29 tal-Att prinċipali, kif sostitwit, għandu jiżdied dan l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Att prinċipali.

"Eżekuzzjoni, mill-qrati, ta' ordni ta' sanzjoni fil-komunità.

29A. (1) Id-dispożizzjonijiet li ġejjin għandhom japplikaw meta sentenza tiġi trasmessa lil qorti ta' kompetenza kriminali taħt l-artikolu 29(2).

(2) Il-qorti ta' kompetenza kriminali, fi żmien sittin jum milli tirċieivi s-sentenza u ċ-ċertifikat, għandha tirrikonoxxi s-sentenza daqs li kieku kienet sentenza mogħtija milli msemmija qorti li timponi sanzjoni komunitarja taħt dan l-Att.

(3) Kopja tas-sentenza u ċ-ċertifikat għandhom ikunu notifikati lill-persuna sentenzjata.

(4) Is-sentenza għandu jkollha l-istess effett bħal sentenza li tordna sanzjoni komunitarja, taħt dan l-Att, u d-dispożizzjonijiet ta' dan l-Att għandhom *mutatis mutandis* japplikaw għal dik is-sentenza, iżda b'danakollu li kull riferenza għal sanzjoni komunitarja taħt dan l-Att għandha tinftiehem bħala riferenza għal dik is-sentenza.

(5) Jekk, f'ċirkostanzi eċċezzjonali, ma jkunx possibbli għal qorti li thares mat-terminu stabbilit bis-subregolament (1), il-qorti għandha tinforma lill-awtorità kompetenti tal-Istat emittenti b'kull mezz, u tagħti r-raġunijiet għad-dewmien u tindika ż-żmien meħtieġ maħsub biex tittiehed deċiżjoni finali."

10. L-artikolu 30 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 30 tal-Att prinċipali.

(a) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu;

(b) fis-subartikolu (1), kif enumerat mill-ġdid tiegħu, minflok il-kliem "Meta Malta hija l-Istat ta' eżekuzzjoni, l-awtorità kompetenti tista' tiċhad li tirrikonoxxi s-sanzjoni komunitarja u tassumi r-responsabbiltà għas-sorveljanza tas-sanzjonijiet komunitarji" għandhom jiġu sostitwiti l-kliem "L-Avukat Generali jista' jiċhad li jirrikonoxxi s-sanzjonijiet komunitarji";

(ċ) fil-paragrafu (a) tas-subartikolu (1), kif enumerat mill-ġdid

C 458

tiegħu, il-kliem "imsemmi fl-artikolu 28(2)" għandhom jiġu mhassra;

(d) il-paragrafu (b) tas-subartikolu (1), kif enumerat mill-ġdid tiegħu, għandu jiġi sostitwit b'dan li ġej:

"(b) jekk l-persuna sentenzjata mhijiex residenti f'Malta u l-persuna sentenzjata tkun irritornat jew tixtieq li tirritona f'Malta,";

(e) minnufih wara l-paragrafu (b) tas-subartikolu (1), kif enumerat mill-ġdid tiegħu, għandhom jizdiedu dawn il-paragrafi ġodda li ġejjin:

"(ba) jekk l-persuna sentenzjata mhijiex residenti f'Malta, l-imsemmija persuna talbet biex tinbagħat is-sanzjoni komunitarja għal Malta mingħajr l-kunsens tal-awtoritajiet ta' Malta;

(bb) jekk l-komunità tipprovdi għal mizuri ta' sorveljanza minbarra dawk imsemmija taht l-artikolu 27,"; u

(f) minnufih wara s-subartikolu (1), kif enumerat mill-ġdid tiegħu, għandu jizdied dan is-subartikolu ġdid li ġej:

"(2) Meta ċ-ċertifikat ma jkunx komplet jew ma jkunx jikkorrispondi mas-sanzjoni komunitarja, l-Avukat Ġenerali jista' jipposponi d-deċiżjoni msemmija taht l-artikolu 29 sakemm jiġi stabbilit tul ta' żmien biex iċ-ċertifikat jiġi kkompletat jew korrett."

Emenda tal-
artikolu 31 tal-
Att prinċipali.

11. L-artikolu 31 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minflok il-kliem "l-awtorità kompetenti" għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali";

(b) fis-subartikolu (2) tiegħu minflok il-kliem "l-awtorità kompetenti" għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali";

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "Meta Malta hija l-Istat ta' eżekuzzjoni, l-awtorità kompetenti għandha tinforma mingħajr dewmien" għandhom jiġu sostitwiti l-kliem "Il-qorti ta' kompetenza kriminali għandha titlob mingħajr dewmien lill-Avukat Ġenerali biex jinforma"; u

(d) fis-subartikolu (4) tiegħu, minflok il-kliem "l-awtorità

kompetenti għandha" għandhom jiġu sostitwiti l-kliem "l-Avukat Ġenerali, fuq talba mill-qorti ta' kompetenza kriminali, għandha"; u l-kliem "imsemmi fl-artikolu 28(2)" għandhom jiġu mħassra.

12. L-artikolu 32 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 32 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "l-awtorità kompetenti tista'" għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali tista'"; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "l-awtorità kompetenti tal-Istat emittenti tista' titlob", għandhom jiġu sostitwiti l-kliem "il-qorti ta' kompetenza kriminali tal-Istat emittenti tista' titlob" u il-kliem "lill-awtorità kompetenti tal-Istat ta' eżekuzzjoni biex tittrasferixxi", għandhom jiġu sostitwiti l-kliem "lill-qorti ta' kompetenza kriminali biex tittrasferixxi".

13. L-artikolu 33 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 33 tal-Att prinċipali.

(a) minflok il-kliem "Meta Malta hija l-Istat ta' eżekuzzjoni, l-awtorità kompetenti għandha, skont l-Artikolu 18 tad-Deċiżjoni Qafas, tinforma mingħajr dewmien lill-awtorità kompetenti tal-Istat emittenti, b'kull mezz li jhalli *record* bil-miktub:" għandhom jiġu sostitwiti l-kliem "L-awtorità emittenti għandha tkun informata, b'kull mezz li jhalli *record* bil-miktub:";

(b) fil-paragrafu (a) tiegħu, il-kliem "imsemmi fl-artikolu 28(2)" għandhom jiġu mħassra; u

(ċ) fil-paragrafu (b) tiegħu, il-kliem "imsemmi fl-artikolu 28(2)" għandhom jiġu mħassra.

14. Minnufih wara l-artikolu 37 tal-Att prinċipali għandha tiżdied din l-iSkeda ġdida li ġejja: Żjieda ta' Skeda ġdida mal-Att prinċipali.

"SKEDA
(Artikolu 2)

1. Sehem f'organizzazzjoni kriminali.
2. Terroriżmu.
3. Traffikar ta' bnedmin.
4. Sfruttament sesswali ta' tfal u pornografija tat-tfal.
5. Traffikar illicitu ta' drogi narkotiċi u sustanzi

C 460

- psikotropiċi.
6. Traffikar illiċitu ta' armi, munizzjon u splussivi.
 7. Korruzzjoni.
 8. Frodi, inkluż dak li jaffettwa l-interessi finanzjarji tal-Komunitajiet Europej fi ħdan it-tifsira tal-Konvenzjoni ta' 26 ta' Lulju 1995 dwar il-protezzjoni tal-interessi finanzjarji tal-Komunitajiet Europej.
 9. *Laundering* ta' rikavati tal-kriminalità.
 10. Falsifikar ta' muniti, inkluż l-euro.
 11. Reati konnessi mal-kompjuters.
 12. Kriminalità ambjentali, inkluż it-traffikar illiċitu ta' speċi minnaċċjati ta' annimali u ta' speċi minnaċċjati ta' pjanti u varjetajiet.
 13. Faċilitazzjoni ta' dħul u residenza mhux awtorizzati.
 14. Omiċidju, offiża gravi fuq persuna.
 15. Kummerċ illiċitu fl-organi u tessuti umani.
 16. Ħtif, żamma illegali u tehid ta' ostaġġi.
 17. Razzismu u ksenofobija.
 18. Serq Organizzat jew b'armi.
 19. Traffikar illiċitu f'merkanzija kulturali, inklużi l-antikittajiet u xogħlijiet tal-arti.
 20. Imbrolju.
 21. Intrigi ta' qerq u estorsjoni.
 22. Falsifikazzjoni u piraterija ta' prodotti.
 23. Falsifikazzjoni ta' dokumenti amministrattivi u traffikar tagħhom.
 24. Falsifikazzjoni ta' mezzi ta' hłas.
 25. Traffikar illiċitu f'sustanzi ta' sustanzi ormonali u ta' sustanzi oħra ta' tkabbir.

26. Traffikar illicitu fil-materjali nukleari jew radjoattivi.
27. Traffikar ta' vetturi misruqa.
28. Stupru.
29. Hruq.
30. Reati fi hdan il-gurisdizzjoni tal-Qorti Kriminali Internazzjonali.
31. Htif illegali ta' ajruplani / vapuri.
32. Sabutaġġ."

Ghanijiet u Raġunijiet

L-ghanijiet ta' dan l-Abbozz huma sabiex jimplimentaw id-Decizjoni Qafas tal-Kunsill 2008/947/GAI tas-27 ta' Novembru 2008 kif emendata bid-Decizjoni Qafas 2009/299/GAI tas-26 ta' Frar 2009, dwar l-applikazzjoni tal-principju ta' rikonoxximent reciproku ta' sentenzi u decizjonijiet li jinvolvu *probation* bil-ħsieb ta' sorveljanza ta' miżuri ta' *probation* u ta' sanzjonijiet alternattivi.

C 462

**A Bill
entitled**

AN ACT to amend the Probation Act.

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. 446.

Amendment of
article 2 of the
principal Act.

1. The short title of this Act is the Probation (Amendment) Act, 2012 and this Act shall be read and construed as one with the Probation Act, hereinafter in this Act referred to as "the principal Act".

2. Article 2 of the principal Act shall be amended as follows:

(a) immediately before the definition "combination order" there shall be added the following new definition:

"certificate" means the form, as contained in Annex I to the Framework Decision, purporting to reproduce details setting out the information required by the same form;"

(b) the definition of "competent authority" shall be deleted;

(c) the definition "executing State" shall be substituted by the following new definition:

" "executing State" means the Member State to which a community sanction has been transmitted for the purpose of execution;"

(d) in the definition "probationer", for the words "combination order." there shall be substituted the words "combination order;" and immediately thereafter there shall be

inserted the following new definition:

" "scheduled conduct" is a conduct in the list of conduct set out in the Schedule."

3. In the Maltese text of sub-article (2) of article 23 of the principal Act, for the words "jew il-qorti" there shall be substituted the words "il-qorti".

Amendment of article 23 of the principal Act.

4. Article 26 of the principal Act shall be substituted by the following new article:

Substitution of article 26 of the principal Act.

"Designated authorities.

26. (1) The provisions of articles 27 to 34 shall be limited to the transmission and execution of judgements imposing community sanctions between Malta and a Member State of the European Union, and shall apply to judgements received in Malta after the 16th December, 2008.

(2) For the purposes of articles 26 to 34, both inclusive:

(a) the Attorney General shall be competent to receive a judgment imposing a community sanction issued in the issuing State and to transmit to the executing State a judgment imposing a community sanction issued in Malta by the courts of criminal jurisdiction;

(b) the courts of criminal jurisdiction shall be competent to issue a judgment imposing a community sanction;

(c) "judgment" shall mean a final decision or order of a court establishing that a natural person has committed a criminal offence and imposing a community sanction."

5. Article 27 of the principal Act shall be amended as follows:

Amendment of article 27 of the principal Act.

(a) sub-article (2) thereof shall be deleted; and

(b) sub-article (1) thereof shall be renumbered as the whole article and for the words "by the competent authority:" therein, there shall be substituted the words "by a court of criminal jurisdiction:".

6. Article 28 of the principal Act shall be amended as follows:

Amendment of article 28 of the principal Act.

(a) in sub-article (1) thereof, for the words "the competent authority shall," there shall be substituted the words "the court of

C 464

criminal jurisdiction shall,"

(b) in the proviso to sub-article (1) thereof, for the words "the competent authority" there shall be substituted the words "the court of criminal jurisdiction";

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

"(1A) The court of criminal jurisdiction may, upon the request of the sentenced person, forward a judgment imposing a community sanction to the competent authority of a Member State other than the Member State in which the sentenced person is lawfully and ordinarily residing, provided that the latter authority has consented to such forwarding.";

(d) in sub-article (2) thereof, for the words "a certificate, in such form as may be prescribed by the Minister by regulations made under this article." there shall be substituted the words "the certificate which shall be signed and its content certified as accurate by the Attorney General.";

(e) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3) Once a community sanction has been forwarded to an executing State under this article and the said State has informed the court of criminal jurisdiction or the Attorney General, as the case may be, that it has recognised the community sanction forwarded, the court of criminal jurisdiction shall no longer have competence over the supervision measures imposed in that sanction nor will it be competent to take decisions referred to in article 31(1) unless any of the following occurs:

(a) the sentenced person absconds or no longer resides in the executing state; or

(b) new criminal proceedings have been instituted against the sentenced person before the Maltese courts.";

(f) in sub-article (4) thereof, for the words "revert to the competent authority:" there shall be substituted the words "revert to the court of criminal jurisdiction, as the case may be:"; and

(g) in sub-article (4)(a) thereof, for the words "as soon as the competent authority has notified" there shall be substituted the words

"as soon as the court of criminal jurisdiction or the Attorney General upon a request by the said court, has notified".

7. Immediately after article 28 of the principal Act there shall be added the following new articles:

Addition of new articles to the principal Act.

"Contents of certificate.

28A. A judgment transmitted in accordance with article 28, shall contain:

(a) a statement that the judgment relates to:

(i) conduct which is a scheduled offence:

Provided that in such cases there shall be no verification whether the conduct is a criminal offence in Malta; or

(ii) conduct which would constitute an offence under the law of Malta if it occurred in Malta:

Provided that the description of the offence shall not be regarded as material if the offence under the law of Malta and the law of the issuing State are substantially of the same nature; and

(b) information indicating the nature and duration of the supervisory measures.

Mode of transmission.

28B. (1) A judgment imposing a community sanction shall be transmitted with the certificate containing the information prescribed therein, by any means capable of producing a written record under conditions permitting the ascertainment of its authenticity.

(2) If so required by the executing State, the original judgment imposing the community sanction or a certified copy of it, and the original of the certificate, shall be sent to the executing State."

8. Article 29 of the principal Act shall be substituted by the following new article:

Substitution of article 29 of the principal Act.

"Attorney General's certificate.

29. (1) Where the Attorney General receives a community sanction in terms of article 26(1)(a), the Attorney General shall, in his own individual discretion and subject to the provisions of article 30, issue a certificate to the effect that the judgment is one referred to in the Framework Decision and such certificate shall be conclusive evidence of its contents.

C 466

(2) Without the need of any further authority other than that conferred by this article, the judgment, together with the certificate referred to in sub-article (1), shall be transmitted to the court of criminal jurisdiction for execution in accordance with article 29A."

Addition of new article to the principal Act.

9. Immediately after article 29 of the principal Act, as substituted, there shall be added the following new article:

"Execution, by courts, of community sanction orders.

29A. (1) The following provisions shall apply where a judgment is transmitted to a court of criminal jurisdiction under article 29(2).

(2) The court of criminal jurisdiction, within sixty days of receipt of the judgment and the certificate, shall recognise the judgment as if it were a sentence made by the said court imposing a community sanction under this Act.

(3) A copy of the judgment and the certificate shall be served on the sentenced person.

(4) The judgment shall have the same effect as a sentence ordering a community sanction, under this Act, and the provisions of this Act shall *mutatis mutandis* apply to the said judgment, so however that any reference to a community sanction under this Act shall be construed as a reference to the said judgment.

(5) If, in exceptional circumstances, it is not possible for the court to comply with the time limit provided for in sub-article (1), it shall inform the competent authority of the issuing State by any means, giving the reasons for the delay and indicating the estimated time needed for the final decision to be taken."

Amendment of article 30 of the principal Act.

10. Article 30 of the principal Act shall be amended as follows:

(a) the current article 30 shall be re-numbered as sub-article (1) thereof;

(b) in sub-article (1), as renumbered, for the words "Where Malta is the executing State, the competent authority may refuse to recognise the community sanctions and assume responsibility for supervising community sanctions" there shall be substituted the words "The Attorney General may refuse to recognise the community sanctions";

(c) in paragraph (a) of sub-article (1), as renumbered, the words "referred to in article 28(2)" shall be deleted;

(d) paragraph (b) of sub-article (1), as renumbered, shall be substituted by the following:

"(b) if the sentenced person is not resident in Malta and the sentenced person has returned or wants to return to Malta;"

(e) immediately after paragraph (b) of sub-article (1), as renumbered, there shall be added the following new paragraphs:

"(ba) if the sentenced person is not resident in Malta the said person requested the community sanction to be forwarded to Malta without the consent of the Maltese authorities;

(bb) if the community provides for supervisory measures other than those referred to under article 27;"
and

(f) immediately after sub-article (1), as renumbered, thereof there shall be added the following new sub-article:

"(2) Where the certificate is incomplete or does not correspond to the community sanction, the Attorney General may postpone the decision referred to under article 29 until a reasonable deadline is set for the certificate to be completed or corrected."

11. Article 31 of the principal Act shall be amended as follows:

Amendment of
article 31 of the
principal Act.

(a) in sub-article (1) thereof for the words "the competent authority" there shall be substituted the words "the court of criminal jurisdiction";

(b) in sub-article (2) thereof for the words "the competent authority" there shall be substituted the words "the court of criminal jurisdiction";

(c) in sub-article (3) thereof, for the words "Where Malta is the executing State, the competent authority shall without delay inform" there shall be substituted the words "The court of criminal jurisdiction shall without delay request the Attorney General to inform"; and

(d) in sub-article (4) thereof, for the words "the competent

C 468

authority shall" there shall be substituted the words "the Attorney General, upon a request by the court of criminal jurisdiction, shall"; and the words "set out in article 28(2)" shall be deleted.

Amendment of article 32 of the principal Act.

12. Article 32 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "the competent authority may" there shall be substituted the words "the court of criminal jurisdiction may"; and

(b) in sub-article (2) thereof, for the words "the competent authority to transfer", whenever they occur, there shall be substituted the words "the court of criminal jurisdiction to transfer".

Amendment of article 33 of the principal Act.

13. Article 33 of the principal Act shall be amended as follows:

(a) for the words "Where Malta is the executing State, the competent authority shall, in accordance with Article 18 of the Framework Decision, without delay inform the competent authority of the issuing State, by any means which leaves a written record, of:" there shall be substituted the words "The issuing authority shall be informed, by any means which leaves a written record, of:";

(b) in paragraph (a) thereof, the words "referred to in article 28(2)" shall be deleted; and

(c) in paragraph (b) thereof, the words "referred to in article 28(2)" shall be deleted.

Addition of Schedule to the principal Act.

14. Immediately after article 37 of the principal Act there shall be added the following new Schedule:

"SCHEDULE
(Article 2)

1. Participation in a criminal organisation.
2. Terrorism.
3. Trafficking in human beings.
4. Sexual exploitation of children and child pornography.
5. Illicit trafficking in narcotic drugs and psychotropic substances.
6. Illicit trafficking in weapons, munitions and explosives.

7. Corruption.
8. Fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests.
9. Laundering of the proceeds of crime.
10. Counterfeiting currency, including of the euro.
11. Computer-related crime.
12. Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties.
13. Facilitation of unauthorised entry and residence.
14. Murder, grievous bodily injury.
15. Illicit trade in human organs and tissue.
16. Kidnapping, illegal restraint and hostage-taking.
17. Racism and xenophobia.
18. Organised or armed robbery.
19. Illicit trafficking in cultural goods, including antiques and works of art.
20. Swindling.
21. Racketeering and extortion.
22. Counterfeiting and piracy of products.
23. Forgery of administrative documents and trafficking therein.
24. Forgery of means of payment.
25. Illicit trafficking in hormonal substances and other growth promoters.
26. Illicit trafficking in nuclear or radioactive materials.
27. Trafficking in stolen vehicles.

C 470

28. Rape.
 29. Arson.
 30. Crimes within the jurisdiction of the International Criminal Court.
 31. Unlawful seizure of aircraft/ships.
 32. Sabotage."
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Objects and Reasons

The objects of this Bill are to transpose Council Framework Decision 2008/947/JHA of 27 November 2008 as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 on the application of the principal of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions.
