



Strasbourg, 27 April 2021

**CDL-REF(2021)039**

**Opinion No. 1034/2021**

Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**MALTA**

**BILL NO. 198**  
**AN ACT TO AMEND THE INTERPRETATION ACT, CAP. 249.**

# **Nru. 198**

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23. 2. 2021

## **MALTA**

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### **KAMRA TAD-DEPUTATI**

### **HOUSE OF REPRESENTATIVES**

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ABBOZZ ta' Liġi mressaq mill-Onorevoli Edward Zammit Lewis, M.P., Ministru għall-Ġustizzja, l-Ugwaljanza u l-Governanza, u moqri għall-Ewwel darba fis-Seduta tat-22 ta' Frar 2021.

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A BILL introduced by the Honourable Edward Zammit Lewis, M.P., Minister for Justice, Equality and Governance, and read the First time at the Sitting of the 22nd February 2021.

**ATT li jemenda l-Att dwar l-Interpretazzjoni, Kap. 249.**

**AN ACT to amend the Interpretation Act, Cap. 249.**

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RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

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RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



## ABBOZZ TA' LIĠI msejjah

*ATT li jemenda l-Att dwar l-Interpretazzjoni, Kap. 249.*

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

**1.** It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 li jemenda l-Att dwar l-Interpretazzjoni u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-Interpretazzjoni, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor.

Kap. 249.

**2.** Minnufih wara l-artikolu 13 tal-Att prinċipali għandu jżied l-artikolu ġdid li ġej:

Żieda ta artikolu ġdid fl-Att prinċipali.

"Pieni ċivili u multi amministrattivi u sanzjonijiet.

13A. (1) Fejn kwalunkwe Att, kemm jekk ikun għadda qabel jew wara dan l-Att, jagħti setgħa lil awtorità pubblika li teżerċita funzjonijiet regolatorji, superviżorji, ta' tharis, investigattivi jew ta' infurzar biex timponi piena ċivili, multa amministrattiva jew sanzjoni oħra ċivili jew amministrattiva pekjunarji jew mhux pekjunarji, tali piena, multa, sanzjoni jew miżura tista' tiġi interpretata bħala li tikkostitwixxi piena ta' natura kriminali u l-ksur li dwaru tista' tiġi imposta l-imsemmija piena, multa, sanzjoni jew miżura bħala li sostantivament tikkostitwixxi reat kriminali soġġett għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu.

(2) Klassifikazzjoni ta' piena, multa, sanzjoni jew miżura kif provdut fis-subartikolu (1) bħala ta' natura kriminali tista' ssir biss fuq il-kunsiderazzjonijiet li ġejjin:

(a) in-natura tal-ksur li dwaru l-piena, multa, sanzjoni jew miżura hija jew tista' tiġi imposta;

(b) in-natura u l-gravità tal-piena, multa, sanzjoni jew miżura.

(3) Piena, multa, sanzjoni jew miżura kif provdut fis-subartikolu (1) ma għandhiex tiġi interpretata bħala li tikkostitwixxi piena ta' natura kriminali u l-ksur li dwaru tista' tiġi imposta l-imsemmija piena, multa, sanzjoni jew miżura m'għandhiex tiġi interpretata bħala li sostantivament tikkostitwixxi reat kriminali fejn il-kondizzjonijiet li ġejjin huma sodisfatti:

(a) hija imposta wara li l-persuna li fuqha hija imposta ngħatat l-opportunità li tressaq id-difiża tagħha fi żmien raġonevoli;

(b) ma tinvolvix prigrunerija, detenzjoni jew forma oħra ta' każda tal-libertà personali;

(c) ma tirriżultax fil-fedina penali;

(d) tkun soġġetta għal appell quddiem qorti kemm fuq punti ta' liġi kif ukoll fuq punti ta' mertu; u

(e) meta appell lil qorti jiġi pprezentat ma jkunx infurzabbli mingħajr l-awtorizzazzjoni tal-qorti li għaliha jkun appellat.

(4) Id-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw għall-interpretazzjoni tal-artikolu 6 tal-Konvenzjoni Ewropea dwar id-Drittijiet tal-Bniedem kif inkorporata fl-Att dwar il-Konvenzjoni Ewropea."

Kap. 319.

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### Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma li jemendaw l-Att dwar l-Interpretazzjoni bil-għan li jirregolaw l-interpretazzjoni tal-klassifikazzjoni ta' liġijiet jew pieni bħala ta' natura kriminali b'referenza partikolari għas-sitwazzjoni fejn Att jagħti setgħa lil awtorità pubblika li teżercita funzjonijiet regolatorji, superviżorji, ta' tharis, investigattivi jew ta' infurzar biex timponi piena ċivili, multa amministrattiva jew sanzjoni oħra ċivili jew amministrattiva pekjunarji jew mhux pekjunarji, tali piena, multa, sanzjoni jew miżura.

**A BILL  
entitled**

*AN ACT to amend the Interpretation Act, Cap. 249.*

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 Interpretation (Amendment) Act, 2021 and this Act shall be read and construed as one with the Interpretation Act, hereinafter referred to as "the principal Act".

Short title.

Cap. 249.

2. Immediately after article 13 of the principal Act there shall be added the following new article:

Addition of new article to the principal Act.

"Civil penalties and administrative fines and sanctions.

13A. (1) Where any Act, whether passed before or after this Act, confers a power upon a public authority which exercises regulatory, supervisory, compliance, investigatory or enforcement functions to impose a civil penalty, an administrative fine or other civil or administrative pecuniary or non-pecuniary sanction or administrative measure, such a penalty, fine, sanction or measure may be interpreted as constituting a punishment of a criminal nature and the infringement in respect of which the said penalty, fine, sanction or measure may be imposed may be interpreted as substantively constituting a criminal offence subject to the following provisions of this article.

(2) A classification of a penalty, fine, sanction or measure as provided in sub-article (1) as being of a criminal nature may only be made upon the following considerations:

(a) the nature of the infringement in respect of which the penalty, fine, sanction or measure is or may be imposed;

(b) the nature and severity of the penalty, fine, sanction or measure.

(3) A penalty, fine, sanction or measure as provided in sub-article (1) shall not be interpreted as constituting a punishment of a criminal nature and the infringement in respect of which the said penalty, fine, sanction or measure may be imposed shall not be interpreted as substantively constituting a criminal offence where the following conditions are satisfied in respect thereof:

(a) it is imposed after the person upon whom the penalty, fine, sanction or measure is imposed has been granted an opportunity to bring forward his defence within a reasonable time;

(b) it does not involve imprisonment, detention or other form of deprivation of personal liberty;

(c) it does not result in a criminal record;

(d) it is subject to appeal to a court both on points of law and on points of fact; and

(e) when an appeal to a court is filed therefrom it is not enforceable without the authorisation of the court to which it is appealed.

(4) The provisions of this article shall not apply to the interpretation of article 6 of the European Convention on Human Rights as incorporated in the European Convention Act."

Cap. 319.

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### **Objects and Reasons**

The objects and reasons of this Bill are to amend the Interpretation Act for the purpose of regulating the interpretation of the classification of laws or punishments as criminal in nature with particular reference to the situation where an Act confers a power upon a public authority which exercises regulatory, supervisory, compliance, investigatory or enforcement functions to impose a civil penalty, an administrative fine or other civil or administrative pecuniary or non-pecuniary sanction or administrative measure.





# VERŻJONI ELETTRONIKA