

L.N. 400 of 2021

**EXTRADITION ACT
(CAP. 276)**

**Extradition (Designated Foreign Countries)
(Amendment No. 3) Order, 2021**

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

1. The title of this order is the Extradition (Designated Foreign Countries) (Amendment No. 3) Order, 2021 and this order shall be read and construed as one with the Extradition (Designated Foreign Countries) Order, hereinafter referred to as "the principal order".

Citation.

S.L. 276. 05.

2. Article 13 of the principal order shall be amended as follows:

Amends article 13 of the principal order.

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) If the court is required to proceed under this article it must decide whether the person's return to the scheduled country is prohibited by reason of:

- (a) the rule of *ne bis in idem*;
- (b) the person's age;
- (c) amnesty."

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

"(1A) If the court is required to proceed under this article, it may refuse to execute the return of the person to the scheduled country if the return is prohibited by reason of:

- (a) prescription or lapse of time;

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- (b) speciality;
- (c) the person's earlier extradition to Malta from another scheduled country;
- (d) the person's earlier extradition to Malta from a country other than a scheduled country.";

(c) in sub-article (2) thereof, the words "of subarticle (1)" shall be substituted with the words "of sub-articles (1) and (1A)";

(d) in sub-article (3) thereof, the words "in subarticle (1)" shall be substituted with the words "in sub-articles (1) and (1A)";

(e) in sub-article (4) thereof, the words "in subarticle (1)" shall be substituted with the words "in sub-articles (1) and (1A)"; and

(f) in sub-article (5) thereof, the words "in subarticle (1)" shall be substituted with the words "in sub-articles (1) and (1A)".

Substitutes
article 14 of the
principal order.

3. Article 14 of the principal order shall be substituted by the following new article:

*"Ne bis in
idem.*

14. For the purposes of this order, a person's return to a scheduled country is barred by reason of the rule of *ne bis in idem* if, and only if, it appears that the person has been finally judged by a court of a scheduled country in respect of the same acts provided that, where there has been a conviction, the sentence has been served or is currently being served or may no longer be executed under the law of the sentencing scheduled country."

Amends article
16 of the
principal order.

4. In article 16 of the principal order, the words "is barred" shall be substituted by the words "may be barred".

Amends article
18 of the
principal order.

5. In sub-article (1) of article 18 of the principal order, the words "is barred" shall be substituted by the words "may be barred".

Amends article
19 of the
principal order.

6. In article 19 of the principal order, the words "is barred" shall be substituted by the words "may be barred".

Amends article
20 of the
principal order.

7. In article 20 of the principal order, the words "is barred" shall be substituted by the words "may be barred".

Deletes article
22 of the
principal order.

8. Article 22 of the principal order shall be deleted.

9. Article 27A of the principal order shall be substituted by the following new article:

Substitutes article 27A of the principal order.

"Decision to surrender.

27A. (1) The final decision on surrender, including the appeal decision, if an appeal is lodged, shall be taken by the court within sixty (60) days starting on the day when the person in respect of whom the Part II warrant was issued was arrested.

(2) Where in exceptional circumstances the time limits set out in sub-article (1) cannot be observed, the central authority shall inform Eurojust, giving the reasons for the delay."

10. Article 28A of the principal order shall be amended as follows:

Amends article 28A of the principal order.

(a) in paragraph (b) of sub-article (2) thereof, immediately after the words "Part II warrant" there shall be added the words "which conditions shall be binding on all the authorities of the issuing scheduled country."; and

(b) sub-article (3) thereof shall be amended as follows:

(i) immediately after the words "been sentenced" there shall be added the words "for an act other than that referred to in the said warrant"; and

(ii) in paragraph (b) thereof, immediately after the words "Part II warrant" there shall be added the words "which conditions shall be binding on all the authorities of the issuing scheduled country."

11. Article 32A of the principal order shall be deleted.

Deletes article 32A of the principal order.

12. In sub-article (5) of article 34 of the principal order, the words "and the person applies to the court to be discharged" shall be deleted.

Amends article 34 of the principal order.

13. Sub-article (4) of article 44 of the principal order shall be substituted by the following new sub-article:

Amends article 44 of the principal order.

"(4) If the extradition hearing has begun, the court is no longer required to proceed or continue proceeding under articles 12 to 31, with the exclusion of article 14."

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Amends article
52 of the
principal order.

14. Article 52 of the principal order shall be amended as follows:

(a) sub-article (9) thereof shall be deleted; and

(b) sub-article (10) thereof shall be renumbered as sub-article (9).

Amends article
73C of the
principal order.

15. In sub-article (1) of article 73C of the principal order, the words "The Commissioner of Police may authorize" shall be substituted by the words "The Commissioner of Police shall authorize".

Amends article
73E of the
principal order.

16. Immediately after sub-article (2) of article 73E of the principal order there shall be added the following new sub-article:

"(3) Where the power or authority to waive the privilege or immunity lies with an authority of another State or international organisation, the judicial authority issuing the Part II warrant shall request it to exercise that power."
