

**L.N. 199 of 2022**

**EXTRADITION ACT  
(CAP. 276)**

**Extradition (Designated Foreign Countries) (Amendment) Order,  
2022**

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) Order, 2022 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.** In sub-article (3) of article 12 of the principal order the word "must" shall be substituted by the words "may, after considering all the circumstances of the case on their own merits,".

Amends article 12 of the principal order.

**3.** In article 14 of the principal order, immediately after the words "a court of a scheduled country" there shall be added the words "or has been finally judged by a court in Malta".

Amends article 14 of the principal order.

**4.** Article 19 of the principal order shall be substituted by the following new article:

Amends article 19 of the principal order.

"Earlier extradition to Malta from a scheduled country or a third country.

**19.** (1) In any case, a person who has been surrendered to a scheduled country pursuant to a European arrest warrant may, without the consent of the executing country, be surrendered to another scheduled country pursuant to a European arrest warrant issued for any offence committed prior to his surrender in the following cases:

(a) where the requested person, having had an opportunity to leave the territory of the country to which he has been surrendered, has not done so within forty-five (45) days of his final discharge, or has returned to that territory after leaving it;

(b) where the requested person consents to be surrendered to a scheduled country other than the executing country pursuant to a European arrest warrant. Consent shall be given before the court and this shall be recorded in a clear manner attesting that the person concerned has given his consent voluntarily and in full awareness of the consequences. The requested person shall have the right to legal counsel; and

(c) where the requested person is not subject to the speciality rule in accordance with this Order.

(2) A person who has been surrendered pursuant to a European arrest warrant shall not be extradited to a third country without the consent of the competent authority of the scheduled country which surrendered the person. Consent shall be given in accordance with the applicable conventions."

Amends article 23 of the principal order.

**5.** In sub-article (5) of article 23 of the principal order, the word "must" shall be substituted by the word "may".

Amends article 28 of the principal order.

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

(a) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) Notwithstanding the court is informed that a person in respect of whom the Part II warrant is issued is charged with an offence in Malta based on the same act on which the Part II warrant is based, the court shall continue with the extradition hearing."; and

(b) sub-article (3) thereof shall be deleted.

Amends article 28A of the principal order.

**7.** Sub-article (1) of article 28A of the principal order shall be substituted by the following new sub-article:

"(1) This article applies if the court after deciding to execute the European arrest warrant is informed that the person in respect of whom the Part II warrant is issued is charged with an offence in Malta based on an act other than the act on which the Part II warrant is based."

Amends article 29 of the principal order.

**8.** Sub-article (1) of article 29 of the principal order shall be substituted by the following new sub-article:

"(1) This article applies if the court after deciding to execute the European arrest warrant is informed that the person in respect of whom the Part II warrant is issued, is serving a sentence of imprisonment or another form of detention in Malta."

**9.** Article 31 of the principal order shall be amended as follows: Amends article 31 of the principal order.

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

"(1) This article applies, once the decision to execute a Part II warrant is taken, and it appears to the court that the conditions in sub-article (2) are satisfied."; and

(b) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) The conditions are that for serious humanitarian reasons including the existence of serious grounds that would manifestly endanger the requested person's life or health."

**10.** Article 34 of the principal order shall be amended as follows: Amends article 34 of the principal order.

(a) paragraph (b) of sub-article (4) thereof shall be substituted by the following new paragraph:

"(b) if the court is informed that the judicial authority which issued the Part II warrant has, on the ground that the surrender of the person is prevented by circumstances beyond the control of the scheduled country and of Malta, agreed to a later date, ten (10) days starting from the later date."; and

(b) sub-article (6) thereof shall be substituted by the following new sub-article:

"(6) Notwithstanding anything contained in article 21(2)(b) and (c) of the Act, if within the period mentioned in sub-article (4), and before he is returned to the scheduled country, the person files any proceedings as those described in article 21(2)(b) and (c) of the Act even if he failed to appeal within the time allowed by the Act, the provisions of this article shall apply."

Amends article  
35 of the  
principal order.

**11.** Article 35 of the principal order shall be amended as follows:

(a) Paragraph (b) of sub-article (3) thereof shall be substituted by the following new paragraph:

"(b) if the court is informed that the judicial authority which issued the Part II warrant has, on the ground that the surrender of the person is prevented by circumstances beyond the control of the scheduled country and of Malta, agreed to a later date, ten (10) days starting from the later date."; and

(b) Sub-article (4) thereof shall be substituted by the following new sub-article:

"(4) If sub-article (3) is not complied with, the court must order his discharge."

Amends article  
42 of the  
principal order.

**12.** In sub-article (4)(b) of article 42 of the principal order, the words "been made." shall be substituted by the words "been made:" and immediately after there shall be added the following new proviso:

"Provided that the final decision on the execution of the Part II warrant shall be taken by the court within a period of ten (10) days from when the requested person consents to his surrender, while a final decision on the execution of the Part II warrant shall be taken within a period of sixty (60) days after the arrest of the requested person when the requested person does not consent to his surrender."

Amends article  
44 of the  
principal order.

**13.** Article 44 of the principal order shall be amended as follows:

(a) in sub-article (5) thereof, immediately after the words "The court must" there shall be added the words "by final decision delivered"; and

(b) sub-article (7) thereof shall be substituted by the following new sub-article:

"(7) If sub-article (5) is not complied with the court must order his discharge."

Amends article  
45 of the  
principal order.

**14.** Sub-article (4) of article 45 of the principal order shall be substituted by the following new sub-article:

"(4) If sub-article (3) is not complied with the court must order his discharge."

**15.** Sub-article (4) of article 47 of the principal order shall be substituted by the following new sub-article: Amends article 47 of the principal order.

"(4) If sub-article (2) is not complied with the court must order his discharge."

**16.** Sub-article (6) of article 52 of the principal order shall be substituted by the following new sub-article: Amends article 52 of the principal order.

"(6) The court may extend the required period for another period of thirty (30) days if it believes it to be in the interest of justice to do so."

**17.** Sub-article (6) of article 54 of the principal order shall be substituted by the following new sub-article: Amends article 54 of the principal order.

"(6) The court may extend the required period for another period of thirty (30) days if it believes it to be in the interest of justice to do so."

**18.** Article 59 of the principal order shall be amended as follows: Amends article 59 of the principal order.

(a) in paragraph (c) of sub-article (4) thereof, the words "in corresponding circumstances" shall be substituted by the words "in the case of an offence not listed in Schedule 2, in corresponding circumstances,"; and

(b) in paragraph (b) of sub-article (4A) thereof the words "the conduct would constitute an offence" shall be substituted by the words "in the case of an offence not listed in Schedule 2, the conduct would constitute an offence".

**19.** Article 60 of the principal order shall be amended as follows: Amends article 60 of the principal order.

(a) paragraph (c) of sub-article (2) thereof shall be substituted by the following new paragraph:

"(c) the certificate shows that a sentence of imprisonment or another form of detention for a term of four (4) months or a greater punishment has been imposed in the scheduled country in respect of the conduct.";

(b) sub-article (4) thereof shall be substituted by the

following new sub-article:

"(4) The conduct also constitutes an extraditable offence in relation to the scheduled country if these conditions are satisfied:

(a) the conduct occurs outside the scheduled country; and

(b) a sentence of imprisonment or another form of detention for a term of four (4) months or a greater punishment has been imposed in the scheduled country in respect of the conduct."; and

(c) sub-article (4A) thereof shall be deleted.

Amends article  
72 of the  
principal order.

**20.** In sub-article (2) of article 72 of the principal order, the words "to be resumed." shall be substituted by the words "to be resumed:" and immediately after there shall be added the following new proviso:

"Provided that in any case, the final decision on the execution of the Part II warrant shall be taken by the court within a period of ten (10) days from when the requested person consents to his surrender while a final decision on the execution of the Part II warrant shall be taken within a period of sixty (60) days after the arrest of the requested person when the requested person does not consent to his surrender."