

ABBOZZ TA' LIĠI imsejjah

ATT biex jemenda l-Att dwar l-Immigrazzjoni (Kap. 217).

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

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2009 li jemenda l-Att dwar l-Immigrazzjoni, u dan l-Att għandu jinqara u jfithem haġa waħda mal-Att dwar l-Immigrazzjoni, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor u bidu fis-sehħ.

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(2) Id-disposizzjonijiet ta' dan l-Att jidhlu fis-sehħ f'dik id-data li l-Ministru responsabbli għall-immigrazzjoni jista', b'avviż fil-Gazzetta jstabilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal dispozizzjonijiet differenti jew għanijiet differenti ta' dan l-Att.

2. Minnufih wara l-artikolu 22 tal-Att prinċipali, għandu jizdied l-artikolu ġdid li ġej:

Zieda ta' artikolu ġdid mal-Att prinċipali.

"Rikonoxximent reċiproku għall-ordnijiet ta' tkeċċija.

23. (1) L-Uffiċjal Prinċipali tal-Immigrazzjoni għandu jirrikonoxxi deċiżjoni ta' tkeċċija maħruġa minn Stat Membru iehor li tkun f'konformità mad-disposizzjonijiet tad-Direttiva 2001/40/KE tat-28 ta' Mejju 2001 dwar ir-Rikonoxximent Reċiproku tad-Deċiżjonijiet dwar it-Tkeċċija ta' Ċittadini ta' Pajjiż Terz, u jieħu dawk il-miżuri neċessarji biex jeżegwixxi dik id-deċiżjoni.

(2) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw għad-deċiżjonijiet ta' tkeċċija li ma gewx imhassra mill-Istat Membru emittenti, fir-rigward ta':

(a) ċittadin ta' pajjiż terz, li tkeċċija tiegħu hija bbażata fuq theddida gravi u prezenti għall-ordni pubblika jew għas-sigurtà nazzjonali, meħuda fil-kazijiet li ġejjin:

(i) kundanna fl-Istat Membru emittenti, għal reat li għalih hemm piena li tinvolvi privazzjoni ta' libertà mill-anqas ta' sena;

(ii) l-eżistenza ta' raġunijiet serji biex wiehed jikkonkludi li ċittadin ta' pajjiż terz ikkommetta reati kriminali serji, jew l-eżistenza ta' prova solida tal-intenzjoni tiegħu li jikkommetti dawk ir-reati fit-territorju ta' dak l-Istat Membru;

(b) ċittadin ta' pajjiż terz li huwa s-sugġett ta' deċiżjoni ta' tkeċċija bbażata fuq in-nuqqas ta' ħarsien tar-regoli nazzjonali dwar id-dhul jew ir-residenza tal-barranin.

(3) Id-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw għall-membri tal-familja ta' persuni li eżerċitaw id-dritt tagħhom ta' moviment liberu skont id-dispożizzjonijiet tal-Unjoni Ewropea u l-leġislazzjoni Maltija.

(4) Ċittadin ta' pajjiż terz li kontrih ħarġet deċiżjoni ta' tkeċċija kif provdut fis-subartikolu (2), jista' jiġi arrestat mingħajr mandat mill-Uffiċjal Prinċipali tal-Immigrazzjoni jew minn xi uffiċjal tal-Pulizija u filwaqt li jkun qed jinżamm hekk arrestat għandu jitqies li jkun taħt kustodja legali.

Kap. 12.

(5) Ebda deċizzjoni ta' tkeċċija maħruġa mill-Uffiċjal Prinċipali tal-Immigrazzjoni jew mill-awtorità amministrattiva kompetenti ta' l-Istat Membru m'għandha tigi mfixkla minhabba f'xi mandat maħruġ skont il-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili.

(6) Id-disposizzjonijiet tal-artikoli 14 u 25A għandhom japplikaw għall-ordnijiet ta' tkeċċija u l-infurzar tal-ordnijiet ta' tkeċċija meħuda kontra ċittadini ta' pajjiżi terzi."

Ghanijiet u raġunijiet

L-għan ta' dan l-Abbozz huwa illi jimplimenta id-dispożizzjonijiet tad-Direttiva 2001/40/KE tat-28 ta' Mejju 2001 dwar ir-Rikonoxximent Reċiproku fuq it-Tkeċċija ta' Ċittadini ta' Pajjiżi Terzi.

**A BILL
entitled**

AN ACT to amend the Immigration Act (Cap. 217).

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 and commencement

Cap. 217.

1. (1) The short title of this Act is the Immigration (Amendment) Act, 2009, and this Act shall be read and construed as one with the Immigration Act, hereinafter referred to as "the principal Act".

(2) The provisions of this Act shall come into force on such a date as the Minister responsible for immigration may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Act.

Addition of new article to the principal Act.

2. Immediately after article 22 of the principal Act there shall be added the following new article:

"Mutual recognition of expulsion orders.

23. (1) The Principal Immigration Officer shall recognise a decision of expulsion issued by another Member State in line with the provisions of Directive 2001/40/EC of the 28th May 2001 on the Mutual Recognition of Decisions on the Expulsion of Third Country Nationals and take the necessary measures to enforce such decision.

(2) The provisions of this article shall apply to decisions of expulsion, which have not been rescinded by the issuing Member State, in relation to:

(a) a third country national, whose expulsion is based on a serious and present threat to public order or to national security and safety, taken in the following cases:

(i) a conviction in the issuing Member State for an offence punishable by a penalty involving deprivation of liberty of at least one year;

(ii) the existence of serious grounds for believing that the third country national has committed serious criminal offences or the existence of solid evidence of his intention to commit such offences within the territory of a Member State;

(b) a third country national who is the subject of an expulsion decision based on failure to comply with national rules on the entry or residence of aliens.

(3) The provision of this article shall not apply to family members of persons who have exercised their right of free movement in accordance with the provisions of European Union and Maltese legislation.

(4) A third country national in whose regard a decision of expulsion has been issued as provided in sub-article (2) may be taken into custody without warrant by the Principal Immigration Officer or by any Police officer and while he is so kept in custody he shall be deemed to be in legal custody.

Cap. 12.

(5) No expulsion decision issued by the Principal Immigration Officer or by the competent administrative authority of a Member State shall be obstructed by means of any warrant issued under the Code of Organization and Civil Procedure.

(6) The provisions of articles 14 and 25A shall apply to expulsion orders and the enforcement of expulsion orders taken against third country nationals."

Objects and reasons

The object of the Bill is to implement the provisions of Directive 2001/40/EC of the 28th May 2001 on the Mutual Recognition of Decisions on the Expulsion of Third Country Nationals.