
Nru. 133

2. 6. 2020

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Edward Zammit Lewis, M.P., Ministru għall-Ġustizzja, l-Ugwaljanza u l-Governanza, f'isem il-Ministru għall-Intern, is-Sigurtà Nazzjonali u l-Infurzar tal-Ligi, u moqri għall-Ewwel darba fis-Seduta tal-25 ta' Mejju 2020.

A BILL introduced by the Honourable Edward Zammit Lewis, M.P., Minister for Justice, Equality and Governance, on behalf of the Minister for Home Affairs, National Security and Law Enforcement, and read the First time at the Sitting of the 25th May 2020.

ATT sabiex jemenda l-Att dwar ir-Rifuġjati, Kap. 420.

AN ACT to amend the Refugees Act, Cap. 420.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT sabiex jemenda l-Att dwar ir-Rifuġjati, Kap. 420.

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2020 li jemenda l-Att dwar ir-Rifuġjati. Titolu fil-qosor.

TAQSIMA I Emendi tal-Att dwar ir-Rifuġjati

2. Din it-Taqsima temenda l-Att dwar ir-Rifuġjati u għandha tinqara u tinftiehem haġa waħda mal-Att dwar ir-Rifuġjati, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali". Emendi għall-Att dwar ir-Rifuġjati. Kap. 420.

3. Fl-artikolu 1 tal-Att prinċipali, il-kelma "ir-Rifuġjati" għandha tiġi sostitwita bil-kliem "il-Protezzjoni Internazzjonali". Emenda tat-titolu fil-qosor tal-Att prinċipali.

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

(a) fit-tifsira "applikant", il-kliem "deċiżjoni finali dwarha mill-Kummissarju jew mill-Bord tal-Appelli dwar ir-Rifuġjati;" għandhom jiġu sostitwiti bil-kliem "deċiżjoni finali dwarha mill-Uffiċjal Kap Eżekuttiv jew mit-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali;"

(b) it-tifsira "applikazzjoni manifestament infondata" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "applikazzjoni manifestament infondata" tfisser applikazzjoni li fir-rigward tagħha:

(a) l-applikant, meta ppreżenta l-applikazzjoni tiegħu u ppreżenta l-fatti, qajjem biss kwistjonijiet li mhumiex rilevanti għall-eżami dwar jekk jikkwalifikax bħala benefiċjarju tal-protezzjoni internazzjonali; jew

(b) l-applikant ikun minn pajjiż ta' origini sigur;

(c) l-applikant ikun qarraq bl-awtoritajiet billi ppreżenta informazzjoni jew dokumenti foloz jew billi żamm informazzjoni jew dokumenti rilevanti rigward l-identità u / jew in-nazzjonalità tiegħu li setgħu kellhom impatt negattiv fuq id-deċiżjoni; jew

(d) huwa probabbli li, b'intenzjoni, l-applikant qered jew jiddisponi minn dokument ta' identità jew ivvjaġġar li setgħa għen biex tigi stabbilita l-identità jew iċ-ċittadinanza tiegħu; jew

(e) l-applikant għamel rappreżentazzjonijiet ċari inkonsistenti u kontradittorji, b'mod ċar falz jew ovvjament improbabli li jikkontradixxu informazzjoni tal-pajjiż ta' origini vverifikata, u b'hekk għamel it-talba tiegħu b'mod ċar konvinċenti fir-rigward ta' jekk jikkwalifikax bħala benefiċjarju tal-protezzjoni internazzjonali; jew

(f) l-applikant introduċa applikazzjoni sussegwenti għal protezzjoni internazzjonali li mhux inammissibbli skont l-artikolu 24 (1)(e); jew

(g) l-applikant ikun qiegħed jagħmel applikazzjoni sempliċiment biex idewwem jew jiffrustra l-infurzar ta' deċiżjoni preċedenti jew imminenti li tirriżulta fit-tneħħija tiegħu; jew

(h) l-applikant iddaħħal Malta b'mod illegali jew tawwal iż-żjara tiegħu illegalment u, mingħajr raġuni ġusta, ma pprezentax lilu nnifsu lill-awtoritajiet jew ma jkunx għamel applikazzjoni għall-protezzjoni internazzjonali mill-aktar fis possibbli, minhabba ċ-ċirkostanzi tad-dhul tiegħu;

jew

(i) l-applikant jirrifjuta li jikkonforma mal-obbligu li jittiehdu l-marki tas-swaba' tiegħu skont ir-Regolament (UE) Nru 603/2013 tal-Parlament Ewropew u tal-Kunsill tas- 26 ta' Ġunju 2013 dwar l-istabbiliment tal- Eurodac għat-tqabbil ta' marki tas-swaba' għall-applikazzjoni effettiva tar-Regolament (UE) Nru 604/2013 li jistabbilixxi l-kriterji u l-mekkaniżmi biex ikun iddeterminat l-Istat Membru responsabbli biex jeżamina applikazzjoni għall-protezzjoni internazzjonali ddepożitata f'wiehed mill-Istati Membri minn ċittadin ta' pajjiż terz jew persuna apolida u dwar talbiet għat-tqabbil ma' data tal-Eurodac mill-awtoritajiet tal-infurzar tal-liġi tal-Istati Membri u mill-Europol għall-finijiet ta' infurzar tal-liġi, u li jemenda r-Regolament (UE) Nru 1077/2011 li jistabbilixxi Aġenzija Ewropea għat-tmexxija operattiva tas-sistemi tal-IT fuq skala kbira fl-ispazju ta' libertà, sigurtà u ġustizzja;

(j) l-applikant jista', għal raġunijiet serji, jitqies bħala periklu għas-sigurtà nazzjonali jew l-ordni pubbliku, jew l-applikant gie mkeċċi bil-forza għal raġunijiet serji ta' sigurtà pubblika jew ordni pubbliku taht il-liġi nazzjonali.";

(ċ) it-tifsira "awtorità li tiddeċiedi" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "awtorità li tiddeċiedi" tfisser l-Uffiċjal Kap Eżekuttiv;

(d) it-tifsira "il-Bord" għandha tiġi mħassra;

(e) it-tifsira "il-Kummissarju" għandha tiġi mħassra;

(f) minnufih wara t-tifsira "status ta' rifugjat" għandu jiżdid it-tifsir ġdid li ġej:

" "it-Tribunal" tfisser it-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali kif stabbilit bl-artikolu 5;

"l-Uffiċjal Kap Eżekuttiv" għandu jkollha l-istess tifsira kif mogħtija lilha fl-artikolu 4 u tinkludi, sa fejn u l-awtorità mogħtija, kwalunkwe persuna oħra awtorizzata temporanjament sabiex taġixxi f'ismu mill-Ministru;".

Emenda tat-
titolu tat-
Taqsimha II tal-
Att prinċipali.

5. It-titolu tat-Taqsimha II tal-Att prinċipali għandu jiġi sostitwit bil-kliem "Uffiċjal Kap Eżekuttiv".

Emenda tal-
artikolu 4 tal-
Att prinċipali.

6. L-artikolu 4 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali tiegħu, il-kliem "Kummissarju għar-Rifuġjati" għandhom jiġu sostitwiti bil-kliem "Uffiċjal Kap Eżekuttiv";

(b) fis-subartikolu (1) tiegħu, il-kliem "l-Kummissarju għar-Rifuġjati" għandhom jiġu sostitwiti bil-kliem "l-Uffiċjal Kap Eżekuttiv";

(ċ) fis-subartikolu (2) tiegħu, il-kelma "Il-Kummissarju" għandha tiġi sostitwita bil-kliem "L-Uffiċjal Kap Eżekuttiv";

(d) fis-subartikolu (3) tiegħu, il-kelma "Il-Kummissarju" għandha tiġi sostitwita bil-kliem "L-Uffiċjal Kap Eżekuttiv";

(e) fis-subartikolu (4) tiegħu, il-kliem "Kummissarju" kull fejn tokkorri għandha tiġi sostitwita bil-kliem "Uffiċjal Kap Eżekuttiv";

(f) is-subartikolu (5) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, il-kliem "dak l-għadd ta' Assistenti Kummissarji għar-Rifuġjati (hawn iżjed 'il quddiem msejha Assistenti Kummissarji)" għandhom jiġu sostitwiti bil-kliem "dak l-għadd ta' Assistenti għall-Uffiċjal Kap Eżekuttiv (hawn iżjed 'il quddiem msejha Assistenti)";

(ii) fil-paragrafu (b) tiegħu, il-kliem "L-Assistenti Kummissarji" għandhom jiġu sostitwiti bil-kelma "L-Assistenti"; u

(iii) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(5) (ċ) L-Assistenti għandu jkollhom, taht it-tmexxija ġenerali tal-Uffiċjal Kap Eżekuttiv, il-funzjonijiet u setgħat bħal dawk mogħtija lill-Uffiċjal Kap Eżekuttiv b'dan l-Att, u li jiġu assenjati lil kull wiehied minnhom mill-Uffiċjal Kap Eżekuttiv, inklużi l-funzjoni u s-setgħa li jeżaminaw applikazzjonijiet għal status ta' rifuġjat u li jamministar il-ġurament lil kull persuna, u referenza f'dan l-Att, minbarra dan l-

artikolu, għall-Uffiċjal Kap Eżekuttiv għandha titqies li tinkludi wkoll referenza għall-Assistent filwaqt li jkun qiegħed jeżerċita funzjoni lilu mogħtija mill-Uffiċjal Kap Eżekuttiv."

7. L-artikolu 5 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 5 tal-Att prinċipali.

"5. (1) It-Tribunal tal-Appell għall-Protezzjoni Internazzjonali għandu jkun magħmul minn *chairperson full-time* u erba' (4) membri jew aktar *part-time* li jkunu maħtura mill-President li jaġixxi fuq il-parir tal-Prim Ministru minn fost persuni li jkunu ta' integrità magħrufa u li jidhrulu li jkunu kwalifikati minhabba f'li kellhom esperjenza, u wrew hila, f'suġġetti li jitqiesu adattati għal dak l-iskop:

Iżda mill-inqas wieħed (1) mill-membri tal-Bord għandu jkun persuna li tkun eżerċitat ta' avukat f'Malta għal perjodu jew perjodi li jammontaw, b'kollox, għal mhux inqas minn seba' (7) snin:

Iżda wkoll wieħed (1) mill-membri għandu jkun persuna li tirrappreżenta s-settur tad-diżabilità.

(2) Il-President li jaġixxi fuq il-parir tal-Prim Ministru, jista' jahtar aktar minn *chairperson* wieħed fit-Tribunal, iżda f'kull każ partikolari joqgħod *chairperson* wieħed (1) biss.

(3) Il-membri tat-Tribunal għandhom jibqgħu fil-kariga għal perjodu ta' tliet (3) snin, u għandhom ikunu eligibbli għall-hatra mill-ġdid.

(4) Il-persuni maħtura bhala membri tat-Tribunal għandhom jokkupaw sakemm jinhatru s-sucċessuri tagħhom.

(5) It-Tribunal għandu jkun magħmul minn żewġ (2) kmamar jew aktar. Kull kamra għandha tikkonsisti minn *chairperson* u żewġ (2) membri oħra.

(6) It-Tribunal għandu jkun assistit minn persunal amministrattiv magħmul minn tal-inqas żewġ (2) segretarji."

8. L-artikolu 6 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu li ġdid ġej:

Sostituzzjoni tal-artikolu 6 tal-Att prinċipali.

"6 Membru tat-Tribunal jista' biss jitnehha mill-kariga mill-President li jaġixxi fuq il-parir tal-Prim Ministru minhabba fi traskuraġni gravi, inkompetenza, jew atti, ommissjonijiet jew

imgieba li ma jixirqux lil membru tat-Tribunal."

Emenda tal-
artikolu 7 tal-
Att prinċipali.

9. L-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikoli (4) sa (6) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) sa (5) rispettivament u s-subartikolu (7) sa (10) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (8) sa (11) rispettivament;

(b) fis-subartikolu (1) tiegħu, il-kliem "Il-Bord ikollu s-setgħa li jisma' u jiddeċiedi appelli kontra rakkomandazzjoni tal-Kummissarju" għandhom jiġu sostitwiti bil-kliem "It-Tribunal ikollu s-setgħa li jisma' u jiddeċiedi appelli kontra rakkomandazzjoni tal-Uffiċjal Kap Eżekuttiv";

(ċ) is-subartikolu (1A) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "jista' jsir" għandhom jiġu sostitwiti bil-kliem "għandu jsir"; u

(ii) fis-subparagrafu (ii) tal-paragrafu (a) tiegħu, il-kliem "mill-President tal-Bord tal-Appelli għar-Rifuġjati" għandhom jiġu sostitwiti bil-kliem "miċ-*chairperson* tat-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali";

(d) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) Appelli lit-Tribunal għandhom isiru fi żmien ħmistax (15)-il ġurnata minn meta ssir in-notifika tad-deċiżjoni tal-Uffiċjal Kap Eżekuttiv lill-applikant. Kopja tal-appell għandha tiġi notifikata lill-Uffiċjal Kap Eżekuttiv.

Iżda t-Tribunal jista' jassumi li l-applikant ikun impliċitament irtira r-rikors tal-appell tiegħu meta jiġi żgurat li:

(a) huwa jkun naqas milli jipprova informazzjoni essenzjali għall-appell li jkun qiegħed jagħmel kemm-il darba l-applikant ma jurix, fi żmien raġonevoli, li n-nuqqas tiegħu seħħ minhabba f'ċirkostanzi li ma setax jikkontrolla;

(b) huwa jkun abbanduna jew telaq mingħajr ma kien awtorizzat mill-post fejn kien joqgħod jew fejn kien qiegħed jinżamm, mingħajr ma għarraf lill-

awtoritajiet kompetenti fi żmien raġonevoli jew ma jkunx, fi żmien tletin (30) ġurnata, haress id-dmir li kellu li jirrapporta jew xi obbligazzjoni oħra li seta' kellu biex jikkomunika.";

(e) is-subartikolu (3) tiegħu għandu jiġi mhassar;

(f) fis-subartikolu (3) tiegħu kif enumerat mill-ġdid, il-kliem "Il-Bord tal-Appelli dwar ir-Rifugjati" għandhom jiġu sostitwiti bil-kliem "It-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali";

(g) is-subartikolu (5) tiegħu kif enumerat mill-ġdid għandu jiġi sostitwit bis-subartikolu li ġej:

"(5) Kull meta ssir seduta orali, is-seduti tat-Tribunal għandhom jinżammu *in camera* sakemm il-partijiet ma jinftiehmux dwar seduta ta' smiġh pubbliku.";

(h) minnufih wara s-subartikolu (5) tiegħu kif enumerat mill-ġdid, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(6) It-Tribunal għandu jitlob lill-applikanti li jagħmlu sottomissjonijiet bil-miktub f'mhux aktar minn għoxrin (20) jum wara s-sottomissjoni tal-applikazzjoni tal-appell. Is-sottomissjoni għandha ssir mingħajr preġudizzju għall-preżentazzjoni ta' evidenza addizzjonali, partikolarment dokumentazzjoni li ma setgħetx tkun disponibbli meta kienet saret is-sottomissjoni matul il-proċeduri.

(7) Mingħajr preġudizzju għall-artikolu 23, it-Tribunal għandu jiżgura li kull każ jiġi konkluz fi żmien tliet xhur mis-sottomissjoni tal-applikazzjoni tal-appell.

F'każijiet li jinvolvu kwistjonijiet kumplessi ta' fatt jew liġi, il-limitu ta' żmien stabbilit fis-subartikolu (1) jista' jiġi estiż b'perjodu addizzjonali ta' tliet (3) xhur. Dan il-limitu ta' żmien jista' jiġi estiż biss meta minhabba ċirkostanzi eċċezzjonali jkun impossibbli li t-Tribunal jiddeċiedi dwar l-appell fi żmien sitt (6) xhur.";

(i) fis-subartikolu (8) kif enumerat mill-ġdid, il-kelma "tal-Bord" għandha tiġi sostitwita bil-kelma "tat-Tribunal";

(j) is-subartikolu (9) kif enumerat mill-ġdid għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(9) Bla ħsara għar-regolamenti magħmula taht l-artikolu 25(1)(b), it-Tribunal għandu jirregola l-proċedura tiegħu nnifsu. It-Tribunal għandu wkoll permezz tal-President ikollu s-setgħa li jamministra l-gurament lil kull persuna li tidher quddiemu."

(k) fis-subartikolu (10) kif enumerat mill-ġdid, il-kelma "tal-Bord" għandha tiġi sostitwita bil-kelma "tat-Tribunal"; u

(l) fis-subartikolu (11) kif enumerat mill-ġdid, il-kelma "l-Bord" għandha tiġi sostitwita bil-kelma "t-Tribunal".

Emenda tal-artikolu 7A tal-Att prinċipali.

10. L-artikolu 7A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "lill-Kummissarju għar-Rifuġjati" għandhom jiġu sostitwiti bil-kliem "lill-Uffiċjal Kap Eżekuttiv"; u

(b) fis-subartikolu (8) tiegħu, il-kliem "il-Kummissarju għar-Rifuġjati" għandhom jiġu sostitwiti bil-kliem "l-Uffiċjal Kap Eżekuttiv".

Emenda tal-artikolu 8 tal-Att prinċipali.

11. L-artikolu 8 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "lill-Kummissarju" għandhom jiġu sostitwiti bil-kliem "lill-Uffiċjal Kap Eżekuttiv"; u

(b) is-subartikolu (4) tiegħu għandu jiġi mħassar.

Emenda tal-artikolu 9 tal-Att prinċipali.

12. Is-subartikolu (2) tal-artikolu 9 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) Persuna li tkun ġiet avżata li ma tkunx għad għandha status ta' rifuġjat ikollha jedd tappella kontra dik id-deċiżjoni fit-Tribunal fi żmien ħmistax (15)-il jum minn dak l-avviż u d-dispożizzjonijiet tal-artikolu 7 għandhom ikunu japplikaw *mutatis mutandis* għal dak l-appell. Id-deċiżjoni tat-Tribunal tkun waħda finali."

Sostituzzjoni tal-artikolu 10 tal-Att prinċipali.

13. L-artikolu 10 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Revoka ta' tmiem ta' jew ċid għal tiġdid ta' status ta' rifuġjat. 10. (1) L-Uffiċjal Kap Eżekuttiv għandu jirrevoka, itemm jew jiċhad li jgedded l-istatus ta' rifuġjat ta' cittadin ta' pajjiż terz jew persuna apolida, jekk ikun waqaf milli jikkwalifika għall-istatus ta' rifuġjat skont l-artikolu 9.

(2) Mingħajr preġudizzju għad-dmir tar-rifuġjat li jiżvela l-fatti kollha u jipprovdi d-dokumentazzjoni rilevanti kollha għad-dispożizzjoni tiegħu, l-Uffiċjal Kap Eżekuttiv għandu jkun intitolat li juri li l-persuna kkonċernata waqfet milli tkun jew qatt ma kienet tikkwalifika għall-istatus ta' rifuġjat skont is-subartikolu (1).

(3) L-Uffiċjal Kap Eżekuttiv għandu jirrevoka, itemm jew jiċhad li jgħedded l-istatus ta' rifuġjat ta' ċittadin ta' pajjiż terz jew persuna apolida jekk, wara li jkun ingħata l-istatus ta' rifuġjat, ikun stabbilit li:

(a) huwa għandu jkun jew huwa eskluż milli jkun rifuġjat skont l-artikolu 12;

(b) il-preżentazzjoni hażina jew l-ommissjoni ta' fatti, inkluż l-użu ta' dokumenti foloz, kienu deċiżivi għall-ġoti tal-istatus ta' rifuġjat.

(4) L-Uffiċjal Kap Eżekuttiv jista' jirrevoka, itemm jew jiċhad li jgħedded l-istatus mogħti lil rifuġjat meta:

(a) ikun hemm bażi raġonevoli biex jiġi kkunsidrat bħala periklu għas-sigurtà nazzjonali;

(b) hu jkun instab ħati ta' sentenza finali ta' delitt partikolarment serju, jikkostitwixxi periklu għall-komunità.

(5) Persuna li l-istatus ta' rifuġjat tagħha qiegħed jiġi kkunsidrat mill-ġdid, għandha tkun infurmata bil-miktub li l-kwalifika tagħha għall-istatus ta' rifuġjat qiegħda tiġi kkunsidrata mill-ġdid, tingħata raġunijiet għal din il-kunsiderazzjoni mill-ġdid u tingħata l-opportunità li tissottometti, f'intervista personali jew f'dikjarazzjoni bil-miktub, ir-raġunijiet tagħha għalfejn l-istatus ta' rifuġjat tagħha ma għandux jiġi rtirat.

(6) Persuna, li fir-rigward tagħha l-Uffiċjal Kap Eżekuttiv ikun irrevoka jew ċahad li jgħedded l-istatus ta' rifuġjat, għandha tkun intitolata tappella kontra r-revoka fit-Tribunal fi żmien ġimgħa minn meta tkun ġiet notifikata bir-revoka, u d-dispożizzjonijiet tal-artikolu 7, għandhom japplikaw *mutatis mutandis*."

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

(a) fin-nota marginali tiegħu, il-kelma "Trattament" għandha tiġi sostitwita bil-kliem "Applikazzjonijiet għall-Protezzjoni Internazzjonali";

(b) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-

Emenda tal-artikolu 13 tal-Att prinċipali.

subartikolu ġdid li ġej:

"(1) Persuna li tkun qiegħda tfitteż protezzjoni internazzjonali f'Malta tista' tapplika għand l-Uffiċjal Kap Eżekuttiv skont il-formola preskritta għal dikjarazzjoni bħal dik u għandha tiġi intervistata mill-Uffiċjal Kap Eżekuttiv kemm jista' jkun malajr."; u

(è) minnufih wara s-subartikolu (3) tiegħu għandu jizdied is-subartikolu ġdid li ġej:

"(4) L-Uffiċjal Kap Eżekuttiv għandu jgħarraf minnufih lill-awtoritajiet kompetenti kull meta minuri li ma jkunux għalaq it-tmintax (18)-il sena u ma jkunx akkumpanjat jagħmel applikazzjoni għall-protezzjoni internazzjonali.".

Emenda tal-artikolu 16 tal-Att prinċipali.

15. Fl-artikolu 16 tal-Att prinċipali, il-kelma "Il-Kummissarju" għandha tiġi sostitwita bil-kliem "L-Uffiċjal Kap Eżekuttiv".

Emenda tal-artikolu 17 tal-Att prinċipali.

16. L-artikolu 17 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Wara li ssirlu rakkomandazzjoni mill-Uffiċjal Kap Eżekuttiv, il-Ministru għandu jiddikjara li jingħata status ta' protezzjoni sussidjarja lill-applikant għal protezzjoni internazzjonali li jkollu l-applikazzjoni tiegħu miċħuda iżda li dwaru jkun hemm motivi tassew għaliex wieħed jaħseb li l-persuna involuta, jekk din titregġa' lura lejn il-pajjiż tal-orìġini tagħha, jew fil-każ ta' persuna apolidi, lejn il-pajjiż fejn hija kienet qabel tirisjedi, tiffaċċa riskju serju li gġarrab danni gravi, u l-Uffiċjal Kap Eżekuttiv ikun għadu jista' jagħmel rakkomandazzjoni bħal dik f'dawk il-każijiet meta jkun hemm ir-riskju serju li jiġġarbu danni gravi wkoll wara li tkun ittiegħdet deċiżjoni li ma tingħatax protezzjoni sussidjarja."; u

(b) fis-subartikolu (3) tiegħu, il-kliem "Il-Kummissarju għar-Rifugjati" għandhom jiġu sostitwiti bil-kliem "L-Uffiċjal Kap Eżekuttiv".

Żieda ta' artikolu ġdid fl-Att prinċipali.

17. Minnufih wara l-artikolu 17 tal-Att prinċipali, għandu jizdied l-artikolu ġdid li ġej:

"Protezzjoni
umanitarja
temporanja.

17A. (1) L-Uffiċjal Kap Eżekuttiv jista' jiddikjara li protezzjoni umanitarja temporanja tingħata lil applikant għal protezzjoni internazzjonali li ma jikkwalifikax għall-istatus ta' rifuġjat jew status ta' protezzjoni sussidjarja, iżda li hu meqjus li jikkwalifika għall-protezzjoni għal raġunijiet umanitarji. Din il-protezzjoni umanitarja temporanja tista' tingħata lil:

(a) minuri mhux akkumpanjat li ma jistax jintbagħat lura fil-pajjiż ta' oriġini tiegħu skont il-prinċipju tal-aħjar interessi tal-minuri;

(b) applikant li huwa marid terminali jew ibati minn kundizzjoni medika serja jew li permezz tagħha jista' jitlef ħajtu u din il-kundizzjoni ma tistax tiġi kkurata fil-pajjiż ta' oriġini tal-applikant jew fil-pajjiż tar-residenza abitwali fil-każ ta' persuni apolidi, jew jekk it-trattament huwa disponibbli, huwa ma jkollux aċċess għal dan it-trattament; u

(ċ) applikant li ma jistax jintbagħat lura minhabba konsiderazzjonijiet umanitarji oħra. Konsiderazzjonijiet bħal dawn jistgħu jinkludu, *inter alia*, każijiet ta' diżabilità serja li jaffettwaw b'mod sinifikanti l-abilità tal-applikant sabiex jgħix ħajja normali.

Iżda cittadin ta' pajjiż terz jew persuna apolida huma esklużi milli jkun eliġibbli għal protezzjoni umanitarja temporanja meta jkun hemm raġunijiet serji li juru li:

(a) ikun wettaq delitt kontra l-paċi, delitt tal-gwerra, jew delitt kontra l-umanità, kif definit fl-istrumenti internazzjonali li jipprovdu dispożizzjonijiet fir-rigward ta' dawn id-delitti jew hija persuna li tinstiga jew tipparteċipa b'xi mod ieħor fil-kummissjoni ta' dawn id-delitti; jew

(b) ikun ikkommetta delitt serju; jew

(ċ) kien ħati ta' atti li huma kontra l-iskopijiet u l-prinċipji tan-Nazzjonijiet Uniti kif stabbiliti fil-Preambolu u l-Artikoli 1 u 2 taċ-*Charter* tan-Nazzjonijiet Uniti; jew

(d) ikun jikkostitwixxi periklu għall-komunità jew għas-sigurtà nazzjonali;

Iżda l-paragrafi (a), (b), (ċ) u (d) għandhom japplikaw ukoll għal persuni li jinstigaw jew li jipparteċipaw mod ieħor fil-kummissjoni tad-delitti jew atti msemmija hawnhekk:

Iżda wkoll id-deċiżjoni dwar l-għoti ta' protezzjoni umanitarja temporanja għandha tingħata flimkien mad-determinazzjoni formali li l-applikant ma jissodisfax il-kriterji ta' rifuġjat jew ta' benefiċjarju ta' protezzjoni sussidjarja taħt dan l-Att:

Iżda wkoll il-protezzjoni umanitarja temporanja tista' tiġi kkunsidrata wkoll fir-rigward ta' applikanti li l-applikazzjoni tagħhom giet miċhuda bħala infondata minn deċiżjoni finali, li jagħmlu talba għal protezzjoni umanitarja temporanja u li jaqgħu taħt waħda mir-raġunijiet elenkati fis-subartikolu (1):

Iżda wkoll ma jista' jsir l-ebda appell minn deċiżjoni tal-Uffiċjal Kap Eżekuttiv li fiha ma tingħatax protezzjoni umanitarja temporanja.

(2) L-istatus jista' jiġi revokat, mitmum jew ma jiġix imġedded kull meta l-kondizzjonijiet li taħthom ingħata ma jibqgħux jeżistu, jew jekk wara li tkun ingħatat protezzjoni umanitarja temporanja, il-benefiċjarju kien imissu jiġi jew gie eskluż milli jkun eliġibbli għal protezzjoni umanitarja temporanja skont is-subartikolu (1):

Iżda l-Uffiċjal Kap Eżekuttiv għandu jingħata s-setgħa li jistabbilixxi l-proċeduri meħtieġa sabiex jiżgura li applikant jikkwalifika għall-protezzjoni umanitarja temporanja u li jkun għadu jissodisfa l-kriterji meħtieġa ta' eliġibbiltà:

Iżda wkoll ma jista' jsir l-ebda appell minn deċiżjoni tal-Uffiċjal Kap Eżekuttiv li tirrevoka, ittemm jew ma gġeddidx protezzjoni umanitarja temporanja.

(3) Deċiżjoni mill-Uffiċjal Kap Eżekuttiv, li tiddikjara applikant għall-protezzjoni internazzjonali, benefiċjarju ta' protezzjoni umanitarja temporanja għandha tkun bla ħsara għad-dritt tal-applikant li jappella d-deċiżjoni fejn ma ngħatax status ta' rifuġjat jew protezzjoni sussidjarja:

Iżda d-dispożizzjonijiet tal-artikolu 22 għandhom japplikaw, *mutatis mutandis*, għall-benefiċjarji ta' protezzjoni umanitarja temporanja."

19. L-artikolu 22 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 22 tal-Att prinċipali.

"22. (1) L-Uffiċjal Kap Eżekuttiv għandu jirrevoka, itemm jew jiċhad li jġedded l-istatus ta' protezzjoni sussidjarja ta' ċittadin ta' pajjiż terz jew persuna apolida jekk ma jibqax eliġibbli għal protezzjoni sussidjarja skont l-artikolu 21.

(2) L-Uffiċjal Kap Eżekuttiv jista' jirrevoka, itemm jew jiċhad li jġedded l-istatus ta' protezzjoni sussidjarja ta' ċittadin ta' pajjiż terz jew persuna apolida, jekk wara li jkun ingħata l-istatus ta' protezzjoni sussidjarja, kellu jkun eskluż milli jkun eliġibbli għal protezzjoni sussidjarja.

(3) L-Uffiċjal Kap Eżekuttiv għandu jirrevoka, itemm jew jirrifjuta li jġedded l-istatus ta' protezzjoni sussidjarja ta' ċittadin ta' pajjiż terz jew persuna apolida, jekk:

(a) wara li jkun ingħata status ta' protezzjoni sussidjarja, messu ġie eskluż milli jkun eliġibbli għal protezzjoni sussidjarja;

(b) il-prezentazzjoni hażina jew l-ommissjoni ta' fatti, inkluż l-użu ta' dokumenti foloz, kienu deċiżivi għall-ġhoti ta' status ta' protezzjoni sussidjarja.

(4) Persuna li l-istatus ta' protezzjoni sussidjarja tagħha qiegħed jiġi kkunsidrat mill-ġdid, għandha tkun infurmata bil-miktub li l-kwalifika tagħha bħala benefiċjarju ta' status ta' protezzjoni sussidjarja qiegħed jiġi kkunsidrat mill-ġdid, tingħata raġunijiet għal din il-konsiderazzjoni mill-ġdid u tingħata l-opportunità li tissottometti, f'intervista personali jew f'dikjarazzjoni bil-miktub, ir-raġunijiet tagħha għalfejn l-istatus ta' protezzjoni sussidjarja tagħha ma għandux jiġi rtirat.

(5) Mingħajr preġudizzju għad-dmir taċ-ċittadin ta' pajjiż terz jew persuna apolida biex tiżvela l-fatti kollha rilevanti u ttipprova d-dokumentazzjoni rilevanti kollha għad-dispożizzjoni tagħha, l-Uffiċjal Kap Eżekuttiv għandu jkun intitolat li juri li l-persuna kkonċernata waqfet milli tkun jew mhix eliġibbli għal protezzjoni sussidjarja skont is-subartikoli (1), (2) u (3) ta' dan l-artikolu."

(6) Persuna li fir-rigward tagħha, l-Uffiċjal Kap Eżekuttiv ikun irrevoka jew ċahad li jġedded status ta' protezzjoni sussidjarja, għandha tkun intitolata tappella kontra r-revoka fit-Tribunal fi żmien ġimgħa minn meta tkun ġiet notifikata bir-revoka, u d-dispożizzjonijiet tal-artikolu 7,

għandhom japplikaw *mutatis mutandis*."

Emenda tal-
artikolu 23 tal-
Att prinċipali.

20. L-artikolu 23 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) Meta l-Uffiċjal Kap Eżekuttiv jkun tal-fehma *prima facie*, f'kull stadju li jkun, li l-applikazzjoni tkun waħda manifestament infondata, l-Uffiċjal Kap Eżekuttiv għandu jeżamina l-applikazzjoni fi żmien tliet (3) ijiem tax-xogħol u għandu, skont ma jkun japplika, jiddeciedi li l-applikazzjoni tkun waħda manifestament infondata.";

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Id-deċiżjoni għandha tiġi minnufih riferita liċ-*Chairperson* tat-Tribunal li għandu jeżamina u jirrevedi d-deċiżjoni tal-Uffiċjal Kap Eżekuttiv fi żmien tliet (3) ijiem tax-xogħol.";

(ċ) is-subartikolu (4) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(4) Id-deċiżjoni taċ-*Chairperson* tat-Tribunal dwar jekk l-applikazzjoni tkunx waħda manifestament infondata għandha tkun waħda finali u konkluziva u minkejja d-dispożizzjonijiet ta' kull liġi oħra, ebda appell jew għamla ta' reviżjoni ġudizzjarja oħra ma tista' ssir quddiem it-Tribunal jew quddiem xi qorti oħra.";

(d) is-subartikolu (5) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(5) Meta, wara li jsiru l-proċeduri msemmija fid-dispożizzjonijiet ta' qabel ta' dan l-artikolu, applikazzjoni tiġi miċhuda, iċ-*Chairperson* tat-Tribunal għandu jibgħat kopja tad-deċiżjoni motivata lill-Ministru u lill-Uffiċjal Kap Eżekuttiv."; u

(e) fis-subartikolu (8) tiegħu, il-kelma "il-Kummissarju" kull fejn tokkorri għandha tiġi sostitwita bil-kliem "l-Uffiċjal Kap Eżekuttiv".

Emenda tal-
artikolu 24 tal-
Att prinċipali.

21. L-artikolu 24 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (e) tiegħu, minnufih wara l-kliem "applikazzjoni separata;" għandha tiżdied il-kelma "jew";

(ii) fil-paragrafu (f) tiegħu, il-kliem "f'dak il-pajjiż; jew" għandhom jiġu sostitwiti bil-kliem "f'dak il-pajjiż."; u

(iii) il-paragrafu (g) tiegħu għandu jiġi mħassar; u

(b) fis-subartikolu (3) tiegħu, il-kelma "Il-Kummissarju" għandha tiġi sostitwita bil-kliem "L-Uffiċjal Kap Eżekuttiv".

22. Fil-paragrafu (b) tas-subartikolu (1) tal-artikolu 25 tal-Att prinċipali, il-kliem "jirregolaw bi ftehim mal-Bord tal-Appelli dwar ir-Rifuġjati appelli taħt dan l-Att quddiem il-Bord tal-Appelli dwar ir-Rifuġjati" għandhom jiġu sostitwiti bil-kliem "jirregolaw bi ftehim mat-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali appelli taħt dan l-Att quddiem it-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali".

Emenda tal-artikolu 25 tal-Att prinċipali.

TAQSIMA II

Emendi Konsegwanzjali tar-Regolamenti dwar l-Istandards ta' Proċedura għall-Għoti u l-Irtirar tal-Protezzjoni Internazzjonali

23. Din it-Taqsima temenda r-Regolamenti dwar l-Istandards ta' Proċedura għall-Għoti u l-Irtirar tal-Protezzjoni Internazzjonali u għanda tinqara u tinftiehem haġa waħda mar-Regolamenti dwar l-Istandards ta' Proċedura għall-Għoti u l-Irtirar tal-Protezzjoni Internazzjonali, hawn iżjed 'il quddiem f'din it-Taqsima msejja "ir-regolamenti prinċipali".

Emendi għar-Regolamenti dwar l-Istandards ta' Proċedura għall-Għoti u l-Irtirar tal-Protezzjoni Internazzjonali. L.S. 420. 07.

24. (a) Fir-regolamenti prinċipali, kwalunkwe referenza għal "Kummissarju" li tfisser il-"Kummissarju għar-Rifuġjati" u għall-"Kummissarju tar-Rifuġjati" għandha tinqara u tinftiehem, wara d-dhul fis-sehħ ta' dan l-Att, bħala referenza għall-"Uffiċjal Kap Eżekuttiv"; u

Emendi ġenerali.

(b) Fir-regolamenti prinċipali, kwalunkwe referenza għall-"Bord" li tfisser "Bord tal-Appelli dwar ir-Rifuġjati" għandha tinqara u tinftiehem, wara d-dhul fis-sehħ ta' dan l-Att, bħala referenza għat-"Tribunal tal-Appelli għall-Protezzjoni Internazzjonali".

25. Ir-regolament 3 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

Emenda tar-regolament 3 tar-regolamenti prinċipali

(a) it-tifsira "l-Att" għandha tiġi sostitwita bit-tifsira

ġdida li ġejja:

" "l-Att" tfisser l-Att dwar il-Protezzjoni Internazzjonali;"

(b) fit-tifsira "applikant", il-kliem "deċiżjoni finali mill-Kummissarju jew mill-Bord tal-Appell dwar ir-Rifuġjati rigward l-applikazzjoni;" għandhom jiġu sostitwiti bil-kliem "deċiżjoni finali mill-Uffiċjal Kap Eżekuttiv jew mit-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali rigward l-applikazzjoni;"

(ċ) it-tifsira "awtorità li tiddeċiedi" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "awtorità li tiddeċiedi" tfisser l-Uffiċjal Kap Eżekuttiv";

(d) it-tifsira "awtoritajiet kompetenti" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "awtoritajiet kompetenti" tfisser l-Uffiċjal Kap Eżekuttiv jew ir-rappreżentanti tiegħu;

(e) it-tifsira "il-Bord" għandha tiġi mħassra;

(f) it-tifsira "Kummissarju" għandha tiġi mħassra; u

(g) minnufih wara t-tifsira "rappreżentat" għandu jiżdied it-tifsir ġdid li ġej:

" "it-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali" tfisser it-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali kif imwaqqaf bl-artikolu 5 tal-Att;

"l-Uffiċjali Kap Eżekuttiv" għandu jkollha l-istess tifsira kif mogħtija lilha bl-artikolu 4 tal-Att u tinkludi fil-limitu u l-awtorità mogħtija, kull persuna oħra temporanjament awtorizzata taġixxi f'ismu mill-Ministru;"

Emenda tar-regolament 13 tar-regolamenti prinċipali.

26. Fis-subregolament (1) tar-regolament 13 tar-regolamenti prinċipali, il-kliem "fil-fajl tal-applikant." għandhom jiġu sostitwiti bil-kliem "fil-fajl tal-applikant:" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda l-Uffiċjal Kap Eżekuttiv jista' jiddeċiedi li l-protezzjoni internazzjonali għandha tiskadi meta l-benefiċjarju

tal-protezzjoni internazzjonali jkun irrinunzja inekwivokament għall-protezzjoni tiegħu."

27. Ir-regolament 16 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

Emenda tar-regolament 16 tar-regolamenti prinċipali.

(a) fis-subregolament (1) tiegħu, il-kelma "il-Kummissarju" għandha tiġi sostitwita bil-kliem "l-Uffiċjal Kap Eżekuttiv"; u

(b) il-proviso għas-subregolament (3) tiegħu għandu jiġi sostitwit bil-proviso ġdid li ġej:

"Iżda l-eċċezzjoni msemmija f'dan ir-regolament tista' ssir biss sakemm l-Uffiċjal Kap Eżekuttiv jew it-Tribunal tal-Appelli għall-Protezzjoni Internazzjonali ma jindikawx, permezz ta' avviż bil-miktub, li d-deċiżjoni tar-ritorn fir-rigward tal-persuna kkonċernata tkun se twassal direttament jew indirettament għal *refoulement*."

28. Is-subparagrafu (iii) tal-paragrafu (d) tas-subregolament (1) tar-regolament 19 tar-regolamenti prinċipali għandu jiġi sostitwit bis-subparagrafu ġdid li ġej:

Emenda tar-regolament 19 tar-regolamenti prinċipali

"(iii) Skont iċ-ċirkostanzi fil-pajjiż tal-orijini, grupp soċjali partikolari jista' jinkludi grupp ibbażat fuq karatteristika komuni jew orjentazzjoni sesswali. L-orjentazzjoni sesswali ma tistax tintfiehem li tinkludi atti meqjusa bħala atti kriminali f'Malta. Is-sess u aspetti relatati mas-sess, inklużi l-identità tal-generu, l-espressjoni tal-generu u l-karatteristiċi tas-sess, għandhom jingħataw konsiderazzjoni xierqa għall-finijiet tad-determinazzjoni tas-sħubija ma' grupp soċjali partikolari jew l-identifikazzjoni ta' karatteristika ta' dan il-grupp;"

29. Minnufih wara s-subregolament (3) tar-regolament 20 tar-regolamenti prinċipali għandu jiżdied is-subregolament ġdid li ġej:

Emenda tar-regolament 20 tar-regolamenti prinċipali.

"(4) Il-benefiċjarji tal-protezzjoni umanitarja temporanja għandhom ikunu intitolati għall-istess drittijiet u benefiċċji bħal dawk għall-benefiċjarji tal-protezzjoni sussidjarja. Iżda d-durata tal-protezzjoni għall-benefiċjarji tal-protezzjoni umanitarja temporanja għandha tkun ta' sena u għandha tiġi mġedda. Dokumenti maħruġa lil dawn il-persuni għandu jkollhom l-istess perjodu ta' validità bħal tal-protezzjoni tagħhom."

TAQSIMA III
Emendi tal-Liġijiet ta' Malta

Emendi għal-
Liġijiet ta'
Malta.

31. Il-Liġijiet ta' Malta għandhom jiġu emendati kif ġej:

(a) kwalunkwe referenza f'kull liġi oħra għall-"Kummissarju" li tfisser il-Kummissarju għar-Rifuġjati għandha tinqara u tinftiehem, wara d-dhul fis-seħh ta' dan l-Att, bħala referenza għall- "Uffiċjal Kap Eżekuttiv";

(b) kwalunkwe referenza f'kull liġi oħra għall-"Uffiċċju tal-Kummissarju għar-Rifuġjati" għandha tinqara u tinftiehem, wara d-dhul fis-seħh ta' dan l-Att, bħala referenza għall-"Aġenzija għall-Protezzjoni Internazzjonali";

(ċ) kwalunkwe referenza fi kwalunkwe liġi oħra għall-"Assistenti Kummissarji" li tfisser l-Assistenti Kummissarji tar-Rifuġjati għandha tinqara u tinftiehem, wara d-dhul fis-seħh ta' dan l-Att, bħala referenza għal "Assistenti għall-Uffiċjal Kap Eżekuttiv tal-Aġenzija għall-Protezzjoni Internazzjonali";

(d) kwalunkwe referenza għall-"Bord ta' Appelli għar-Rifuġjati" għandha tinqara u tinftiehem, wara d-dhul fis-seħh ta' dan l-Att, bħala referenza għat-"Tribunal tal-Appelli għall-Protezzjoni Internazzjonali".

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jemenda l-Att dwar ir-Rifuġjati bil-għan li tinbidel in-nomenklatura minn "Rifuġjati" għal "Protezzjoni Internazzjonali" kif ukoll li jiġu introdotti dispożizzjonijiet godda b'rabta mal-għoti tal-Protezzjoni Umanitarja Temporanja.

**A BILL
entitled**

AN ACT to amend the Refugees Act, Cap. 420.

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 Refugees (Amendment) Act, 2020. Short title.

**PART I
Amendments to the Refugees Act**

2. This Part amends the Refugees Act and it shall be read and construed as one with the Refugees Act, hereinafter in this Part referred to as "the principal Act". Amendments to the Refugees Act. Cap. 420.

3. In article 1 of the principal Act, the word "Refugees" shall be substituted by the words "International Protection". Amendment of article 1 of the principal Act.

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

(a) in the definition "applicant", the words "taken by the Commissioner or the Refugees Appeals Board" shall be substituted by the words "taken by the Chief Executive Officers or the International Protection Appeals Tribunal";

(b) the definition "the Board" shall be deleted;

(c) the definition "the Commissioner" shall be deleted;

(d) immediately after the definition "beneficiary of international protection", there shall be added the following new

definition:

" "the Chief Executive Officer" means the same as the meaning given to it by article 4 and includes to the extent and authority given, any other person temporarily authorised on that behalf by the Minister;"

(e) the definition "determining authority" shall be substituted by the following new definition:

" "determining authority" means the Chief Executive Officer;"

(f) the definition "manifestly unfounded application" shall be substituted by the following new definition:

" "manifestly unfounded" application means an application in relation to which:

(a) the applicant, in submitting his application and presenting the facts, has only raised issues that are not relevant to the examination of whether he qualifies as a beneficiary of international protection; or

(b) the applicant is from a safe country of origin;

(c) the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his identity and/or nationality that could have had a negative impact on the decision; or

(d) it is likely that, in bad faith, the applicant has destroyed or disposed of an identity or travel document that would have helped establish his identity or nationality; or

(e) the applicant has made clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict sufficiently verified country-of-origin information, thus making his claim clearly unconvincing in relation to whether he qualifies as a beneficiary of international protection; or

(f) the applicant has introduced a subsequent

application for international protection that is not inadmissible in accordance with article 24(1)(e); or

(g) the applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his removal; or

(h) the applicant entered Malta unlawfully or prolonged his stay unlawfully and, without good reason, has either not presented himself to the authorities or has not made an application for international protection as soon as possible, given the circumstances of his entry; or

(i) the applicant refuses to comply with an obligation to have his fingerprints taken in accordance with Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of Eurodac for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member States responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes; or

(j) the applicant may, for serious reasons, be considered a danger to national security or public order, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.";

(g) immediately after the definition "subsidiary protection status" there shall be added the following new definition:

" "the Tribunal" means the International Protection Appeals Tribunal as established by Article 5;"; and

(h) in the definition "withdrawal of international protection", the words "the Commissioner" shall be substituted by the words "the Chief Executive Officer".

Amendment of the title of Part II of the principal Act.

5. The title of Part II of the principal Act shall be substituted by the words "Chief Executive Officer".

Amendment of article 4 of the principal Act.

6. Article 4 of the principal Act shall be amended as follows:

(a) in the marginal note thereof, the words "Refugee Commissioner" shall be substituted by the words "Chief Executive Officer";

(b) in sub-article (1) thereof, the words "The Commissioner" shall be substituted by the words "The Chief Executive Officer";

(c) in sub-article (2) thereof, the words "The Commissioner" shall be substituted by the words "The Chief Executive Officer";

(d) in sub-article (3) thereof, the words "The Commissioner" shall be substituted by the words "The Chief Executive Officer";

(e) in sub-article (4) thereof, the words "the Commissioner" wherever they occur shall be substituted by the words "the Chief Executive Officer";

(f) sub-article (5) thereof shall be amended as follows:

(i) in paragraph (a) thereof, the words "such number of Assistant Refugee Commissioners (hereinafter referred to as Assistant Commissioners)" shall be substituted by the words "such number of Assistants to the Chief Executive Officer (hereinafter referred to as Assistants)";

(ii) in paragraph (b) thereof, the words "Assistant Commissioners" shall be substituted by the word "Assistants"; and

(iii) paragraph (c) of sub-article (5) thereof, shall be substituted by the following new paragraph:

"(c) The Assistants shall under the general direction of the Chief Executive Officer have such functions and powers as are conferred on the Chief Executive Officer by this Act, and are assigned to each of them by the Chief Executive Officer, including the function and power to examine

applications for refugee status and to administer the oath to any person, and any reference in this Act, other than in this article to the Chief Executive Officer shall be deemed to include also reference to an Assistant in the exercise of any function assigned to him by the Chief Executive Officer."

7. Article 5 of the principal Act shall be substituted by the following new article: Substitution of article 5 of the principal Act.

"International Protection Appeals Tribunal. 5. (1) The International Protection Appeals Tribunal shall consist of one (1) chairperson on a full-time basis and four (4) or more members on a part-time basis who shall be appointed by the President acting on the advice of the Prime Minister from amongst persons of known integrity who appear to him to be qualified by reason of having had experience of, and shown capacity in, matters deemed appropriate for the purpose:

Provided that at least one (1) of the members of the Tribunal shall be a person who has practised as an advocate in Malta for a period or periods amounting, in the aggregate, to not less than seven (7) years:

Provided further than one (1) of the members shall be a person representing the disability sector.

(2) The President acting on the advice of the Prime Minister, may appoint more than one (1) chairperson to sit on the Tribunal, but only one (1) chairperson shall sit in any one case.

(3) The members of the Tribunal shall hold office for a period of three (3) years, and shall be eligible for reappointment.

(4) Persons appointed as members of the Tribunal shall hold office until their successors are appointed.

(5) The Tribunal shall be composed of one(1) or more chambers. Each chamber shall consist of a chairperson and two (2) other members.

(6) The Tribunal shall be assisted by administrative staff consisting of at least two(2) secretaries.

8. Article 6 of the principal act shall be substituted by the following new article: Amendment of article 6 of the principal Act.

"6. A member of the Tribunal may only be removed from office by the President acting on the advice of the Prime Minister on grounds of gross negligence, incompetence, or acts, omissions or conduct unbecoming a member of the Tribunal."

Amendment of
article 7 of the
principal Act.

9. Article 7 of the principal Act shall be amended as follows:

(a) sub-articles (4) to (6) thereof shall be re-numbered as sub-articles (3) to (5) respectively and sub-articles (7) to 10 shall be re-numbered as sub-articles (8) to (11) respectively;

(b) in sub-article (1) thereof, the words "The Board shall have power to hear and determine appeals against a recommendation of the Commissioner" shall be substituted by the words "The Tribunal shall have power to hear and determine appeals against a recommendation of the Chief Executive Officer";

(c) sub-article (1A) thereof shall be amended as follows:

(i) the words "may be permitted" shall be substituted by the words "shall lie"; and

(ii) in sub-paragraph (ii) thereof, the words "Refugees Appeals Board" shall be substituted by the words "International Protection Appeals Tribunal";

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

"(2) Appeals to the Tribunal shall be made within fifteen (15) days from the notification on the applicant of the decision of the Chief Executive Officer. A copy of the appeal shall be served on the Chief Executive Officer;

Provided that the Tribunal may assume that the applicant has implicitly withdrawn his application of appeal when it is ascertained that:

(a) he has failed to provide information essential to his appeal;

(b) he has abandoned or left without authorisation the place where he lived or was held, without contacting the competent authorities within a reasonable time or he has not, within thirty (30) days, complied with reporting duties or other obligations to communicate.";

(e) sub-article (3) thereof, shall be deleted;

(f) in sub-article 3 thereof as re-numbered, the words "Refugees Appeals Board" shall be substituted by the words

"International Protection Appeals Tribunal";

(g) sub-article 5 thereof as re-numbered shall be substituted by the following new sub-article:

"(5) Wherever an oral hearing is held, the sittings of the Tribunal shall be held *in camera* unless the parties agree on a public hearing.";

(h) immediately after sub-article 5 as re-numbered, there shall be added the following sub-articles:

"(6) The Tribunal shall require applicants to make written submissions within not more than twenty (20) days following the submission of the appeal application. The submission shall be made without prejudice to the presentation of additional evidence, particularly documentation that could not have been available when the submission was made, in the course of the proceedings.

(7) Without prejudice to article 23, the Tribunal shall ensure that each case is concluded within three (3) months of the lodging the appeals application.

In cases involving complex issues of fact or law, the time-limit set out in sub-article (1) may be prolonged by an additional three (3) month period. This time limit may only be further extended where exceptional circumstances make it impossible for the Tribunal to decide on the appeal within a total period of six (6) months."

(i) in sub-article (8) as re-numbered, the word "Board" shall be substituted by the word "Tribunal";

(j) sub-article (9) as re-numbered, shall be substituted by the following new sub-article:

"(9) Subject to regulations made under article 25(1)(b), the Tribunal shall regulate its own procedure. The Tribunal shall also through the Chairperson have the power to administer an oath to any person appearing before it.";

(k) in sub-article (10) as re-numbered, the word "Board" shall be substituted by the word "Tribunal"; and

(l) in sub-article (11) as re-numbered, the word "Board" shall be substituted by the word "Tribunal".

Amendment of article 7A of the principal Act.

10. Article 7A of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words "the Commissioner for Refugees" shall be substituted by the words "the Chief Executive Officer"; and

(b) in sub-article (8) thereof, the words "the Refugee Commissioner" shall be substituted by the words "the Chief Executive Officer".

Amendment of article 8 of the principal Act.

11. Article 8 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words "the Commissioner" shall be substituted by the words "the Chief Executive Officer"; and

(b) sub-article (4) thereof shall be deleted.

Amendment of article 9 of the principal Act.

12. Sub-article (2) of article 9 of the principal Act shall be substituted by the following new sub-article:

"(2) A person who is notified that he has ceased to possess refugee status shall be entitled to appeal against such decision to the Tribunal within fifteen (15) days of such notification and the provisions of article 7 shall *mutatis mutandis* apply to such appeal. The decision of the Tribunal shall be final."

Substitution of article 10 of the principal Act.

13. Article 10 of the principal Act shall be substituted by the following new article 10:

"Revocation of, ending of or refusal to renew refugee status.

10. (1) The Chief Executive Officer shall revoke, end or refuse to renew the refugee status of a third-country national or a stateless person, if he has ceased to be a refugee in accordance with article 9.

(2) Without prejudice to the duty of the refugee to disclose all facts and provide all relevant documentation at his disposal, the Chief Executive Officer shall be entitled to demonstrate that the person concerned has ceased to be or has never been a refugee in accordance with sub-article 1 of this article.

(3) The Chief Executive Officer shall revoke, end or refuse to renew the refugee status of a third-country national or stateless person if, after he has been granted refugee status, it is established that:

(a) he should have been or is excluded from being a refugee in accordance with article 12;

(b) his misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of refugee status.

(4) The Chief Executive Officer may revoke, end or refuse to renew the status granted to a refugee when:

(a) there are reasonable grounds for regarding him as a danger to national security;

(b) he, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community.

(5) A person whose refugee status is being reconsidered, shall be informed in writing that his qualification for refugee status is being reconsidered, is given reasons for such reconsideration and is given the opportunity to submit, in a personal interview or in a written statement, his reasons as to why his refugee status should not be withdrawn.

(6) A person, in whose regard the Chief Executive Officer has revoked or refused to renew a refugee status, shall be entitled to appeal against the revocation to the Tribunal within one week of the notification of the revocation on him, and the provisions of article 7, shall *mutatis mutandis* apply."

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

Amendment of article 13 of the principal Act.

(a) in the marginal note thereof, the word "Resettlement" shall be substituted by the words "Applications for International Protection";

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

"(1) A person seeking international protection in Malta may apply to the Chief Executive Officer in the prescribed form for a declaration and shall be interviewed by the Chief Executive Officer as soon as practicable."; and

(c) immediately after sub-article (3) thereof, there shall be added the following sub-article:

"(4) The Chief Executive Officer shall immediately inform the competent authorities once an unaccompanied minor makes an application for international protection."

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Amendment of article 16 of the principal Act.

15. In article 16 of the principal Act, the words "The Commissioner" shall be substituted by the words "The Chief Executive Officer".

Amendment of article 17 of the principal Act.

16. Article 17 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the word "Commissioner " shall be substituted by the words "The Chief Executive Officer "; and

(b) in sub-article (3) thereof, the words "The Refugee Commissioner" shall be substituted by the words "The Chief Executive Officer".

Addition of new article to the principal Act.

17. Immediately after article 17 of the principal Act, there shall be added the following new article:

"Temporary Humanitarian Protection.

17A. (1) The Chief Executive Officer may declare that temporary humanitarian protection is granted to an applicant for international protection who does not qualify for refugee status or subsidiary protection status, but who is deemed to qualify for protection on humanitarian grounds. Such temporary humanitarian protection may be granted to:

(a) an unaccompanied minor who cannot be returned to his country of origin pursuant to the principle of the best interests of the child;

(b) an applicant who is terminally ill or suffers from a severe or life-threatening medical condition that cannot be treated in the applicant's country of origin or in the country of former habitual residence for persons who are recognised as being stateless, or if treatment is available, he would not have access to such treatment; and

(c) to an applicant who cannot be returned in view of other humanitarian considerations. Such considerations may include, *inter alia*, cases of serious disability that significantly affect the applicant's ability to conduct a normal life:

Provided that a third country national or a stateless person is excluded from being eligible for temporary humanitarian protection where there are serious reasons for considering that:

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes or is a person who instigates or otherwise participates in the commission of such crimes; or

(b) he has committed a serious crime; or

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations; or

(d) he constitutes a danger to the community or to national security:

Provided that paragraphs (a), (b), (c) and (d) shall also apply to persons who instigate or otherwise participate in the commission of the crimes or acts mentioned therein:

Provided further that the decision concerning the granting of temporary humanitarian protection shall be given in conjunction with the formal determination that the applicant does not meet the criteria of a refugee or a beneficiary of subsidiary protection under this Act:

Provided further that temporary humanitarian protection may also be considered in respect of applicants whose application has been rejected as unfounded by a final decision, who make a request for temporary humanitarian protection and who fall under one of the grounds listed in sub-article (1):

Provided further that no appeal shall lie from a decision by the Chief Executive Officer not to grant temporary humanitarian protection.

(2) The status may be revoked, ended or not renewed whenever the conditions under which it was granted no longer subsist, or if after being granted temporary humanitarian protection, the beneficiary should have been or is excluded from being eligible for temporary humanitarian protection in accordance with sub-article (1):

Provided that the Chief Executive Officer shall be empowered to set-up the necessary procedures to ensure that an applicant qualifies for temporary humanitarian protection and that he still meets the necessary eligibility criteria:

Provided further that no appeal shall lie from a decision by the Chief Executive Officer to revoke, end or not renew temporary humanitarian protection.

(3) A decision by the Chief Executive Officer, to declare an applicant for international protection a beneficiary of temporary humanitarian protection shall be without prejudice to the right of the applicant to appeal the decision not to grant refugee or subsidiary protection status:

Provided that the provisions of article 22 shall apply, *mutatis mutandis*, to beneficiaries of temporary humanitarian protection."

Amendment of article 21 of the principal Act.

18. In article 21 of the principal Act, the words "the Commissioner" shall be substituted by the words "the Chief Executive Officer".

Substitution of article 22 of the principal Act.

19. Article 22 of the principal Act shall be substituted by the following new article:

"Revocation of, ending of or refusal to renew subsidiary protection status.

22. (1) The Chief Executive Officer shall revoke, end or refuse to renew the subsidiary protection status of a third-country national or a stateless person if he has ceased to be eligible for subsidiary protection in accordance with article 21.

(2) The Chief Executive Officer may revoke, end or refuse to renew the subsidiary protection status of a third-country national or a stateless person, if after having been granted subsidiary protection status, he or she should have been excluded from being eligible for subsidiary protection.

(3) The Chief Executive Officer shall revoke, end or refuse to renew the subsidiary protection status of a third-country national or stateless person, if:

(a) he, after having been granted subsidiary protection status, should have been excluded from being eligible for subsidiary protection;

(b) his misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of subsidiary protection status.

(4) A person whose subsidiary protection status is being reconsidered, shall be informed in writing that his qualification as a beneficiary of subsidiary protection status is being reconsidered, is given reasons for such reconsideration and is given the opportunity to submit, in a personal interview or in a written statement, his reasons as to why his subsidiary protection status should not be withdrawn.

(5) Without prejudice to the duty of the third-country national or stateless person to disclose all relevant facts and provide all relevant documentation at his disposal, the Chief Executive Officer shall be entitled to demonstrate that the person concerned has ceased to be or is not eligible for subsidiary protection in accordance with sub-articles (1), (2) and (3) of this article.

(6) A person, in whose regard the Chief Executive Officer has revoked or refused to renew a subsidiary protection status, shall be entitled to appeal against the revocation to the Tribunal within one week of the notification of the revocation on him, and the provisions of article 7, shall *mutatis mutandis* apply."

20. Article 23 of the principal Act shall be amended as follows:

Amendment of
article 23 of the
principal Act.

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

"(2) Where the Chief Executive Officer is *prima facie* of the opinion, at whichever stage, that the application is manifestly unfounded, the Chief Executive Officer shall examine the application within three (3) working days and shall, where applicable, recommend that the application is manifestly unfounded.";

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

"(3) The decision shall immediately be referred to the Chairman of the Tribunal who shall examine and review the decision of the Chief Executive Officer within three (3) working days.";

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

"(4) The decision of the Chairman of the Tribunal on whether the application is manifestly unfounded shall

be final and conclusive and, notwithstanding the provisions of any other law, no appeal or form of judicial review shall lie before the Tribunal or before any other court of law.";

(d) sub-article (5) thereof shall be substituted by the following new sub-article:

"(5) Where, following the procedures outlined in the previous provisions of this article, an application is rejected, the Chairman of the Tribunal shall send a copy of the decision with the grounds therefor to the Minister and the Chief Executive Officer."; and

(e) in sub-article (8) thereof, the words "the Commissioner" shall be substituted by the words "the Chief Executive Officer".

Amendment of article 24 of the principal Act.

21. Article 24 shall be amended as follows:

(a) sub-regulation (1) thereof shall be amended as follows:

(i) in paragraph (e) thereof, immediately after the words "a separate application;" there shall be added the word "or";

(ii) in paragraph (f) thereof, the words "to that country; or" shall be substituted by the words "to that country."; and

(iii) paragraph (g) thereof shall be deleted; and

(b) in sub-article (3) thereof, the words "the Commissioner" shall be substituted by the words "the Chief Executive Officer".

Amendment of article 25 of the principal Act.

22. In paragraph (b) of sub-article (1) of article sub-article 25 of the principal Act, the words "with the concurrence of the Refugees Appeals Board, appeals under this Act to the Refugees Appeals Board" shall be substituted by the words "with the concurrence of the International Protection Appeals Tribunal, appeals under this Act to the International Protection Appeals Tribunal".

PART II
**Amendments to the Procedural Standards for Granting and
 Withdrawing International Protection Regulations**

23. This Part amends the Procedural Standards for Granting and Withdrawing International Protection Regulations and it shall be read and construed as one with the Procedural Standards for Granting and Withdrawing International Protection Regulations, hereinafter in this Part referred to as "the principal regulations".

Amendments to the Procedural Standards for Granting and Withdrawing International Protection Regulations. S.L. 420. 07.

24. (a) any reference to "Commissioner" meaning the Refugee Commissioner and Commissioner of Refugees shall be read and construed, after the coming into force of this Act, as a reference to the "Chief Executive Officer"; and

General amendment.

(b) any reference to "Board" meaning the "Refugees Appeals Board" shall be read and construed, after the coming into force of this Act, as a reference to the "International Protection Appeals Tribunal".

25. Regulation 3 of the principal regulations shall be amended as follows:

Amendment of regulation 3 of the principal regulations.

(a) the definition "Act" shall be substituted by the following new definition:

" "Act" means the International Protection Act;"

(b) in the definition "applicant" the words "taken by the Commissioner or the by Refugees Appeals Board" shall be substituted by the words "taken by the Chief Executive Officer or by the International Protection Appeals Tribunal";

(c) the definition "the Board" shall be deleted;

(d) the definition "the Commissioner" shall be deleted;

(e) immediately after the definition "applicant in need of special guarantees" there shall be added the following new definition:

" "the Chief Executive Officer" means the same as the meaning given to it by article 4 of Act and includes to the extent and authority given, any other person temporarily authorised on that behalf by the Minister;"

(f) the definition "competent authorities" shall be substituted by the following new definition:

" "competent authorities" means the Chief Executive Officer or his representatives;"

(g) the definition of "determining authority" shall be substituted by the following new definition:

" "determining authority" means the Chief Executive Officer;" and

(h) immediately after the definition "representative" there shall be added the following new definition:

" "the Tribunal" means the International Protection Appeals Tribunal as established by article 5 of the Act;"

Amendment of regulation 13 of the principal regulations.

26. In sub-regulation (1) of regulation 13 of the principal regulations, the words "applicant's file." shall be substituted by the words "applicant's file:" and immediately thereafter there shall be added the following proviso:

"Provided that the Chief Executive Officer may decide that international protection shall lapse where the beneficiary of international protection has unequivocally renounced his protection."

Amendment of regulation 16 of the principal regulations.

27. Regulation 16 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, the words "the Commissioner" shall be substituted by the words "the Chief Executive Officer"; and

(b) the proviso to sub-regulation (3) thereof shall be substituted by the following new proviso:

"Provided that the exception referred to in this regulation may only be made so long as the Chief Executive Officer or the International Protection Appeals Tribunal do not indicate, by means of a notice in writing, that the return decision in respect of the person in question would constitute direct or indirect refoulement."

Amendment of regulation 19 of the principal regulations.

28. Sub-paragraph (iii) of paragraph (d) of sub-regulation (1) of regulation 19 of the principal regulations shall be substituted by the following new sub-paragraph:

"(iii) depending on the circumstances in the country of origin, a particular social group might include a group based on a

common characteristic or sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in Malta. Gender and sex related aspects, including gender identity, gender expression and sex characteristics, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group;"

29. Immediately after sub-regulation (3) of regulation 20 of the principal regulations, there shall be added the following sub-regulation:

Amendment of regulation 20 of the principal regulations.

"(4) Beneficiaries of temporary humanitarian protection shall be entitled to the same rights and benefits as for beneficiaries of subsidiary protection; provided however that the duration of protection for beneficiaries of temporary humanitarian protection shall be of one year and shall be renewable. Documents issued to such persons shall have the same period of validity as for their protection."

PART III

Amendments to the Laws of Malta

30. This Part amends the Laws of Malta and they shall be amended as follows:

(a) any reference in any other law to "Commissioner" meaning the Refugee Commissioner and Commissioner of Refugees shall be read and construed, after the coming into force of this Act, as a reference to the "Chief Executive Officer";

(b) any reference in any other law to the "Office of the Refugee Commissioner" shall be read and construed, after the coming into force of this Act, as a reference to the "International Protection Agency";

(c) any reference in any other law to the "Assistant Commissioners" meaning the Assistant Refugee Commissioners shall be read and construed, after the coming into force of this Act, as a reference to "Assistants to the Chief Executive Officer of the International Protection Agency"; and

(d) any reference to the "Refugees Appeals Board" shall be read and construed, after the coming into force of this Act, as a reference to the "International Protection Appeals Tribunal".

Objects and Reasons

The objects and reasons of this Bill are to amend the Refugees Act with a view to changing the nomenclature from "Refugees" to "International Protection" as well as introducing new provisions in relation to the granting of Temporary Humanitarian Protection.

