

MALTA

ATT Nru. IX ta' l-1994

ACT No. IX of 1994

ATT mahruġ b'ligi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

ATT biex jemenda l-Kostituzzjoni ta' Malta.

AN ACT to amend the Constitution of Malta.

Naghti l-kunsens tiegħi.

(L.S.)

UGO MIFSUD BONNICI
President

8 ta' April, 1994

ATT Nru. IX ta' l-1994

ATT biex jemenda l-Kostituzzjoni ta' Malta.

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

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1994 li jemenda l-Kostituzzjoni ta' Malta, u għandu jinqara u jiftiehem haġa waħda mal-Kostituzzjoni ta' Malta, hawnhekk iżjed 'il quddiem imsejha "il-Kostituzzjoni".

Titolu fil-qosor.

2. Minnufih wara l-artikolu 101 tal-Kostituzzjoni, għandu jidhol l-artikolu 101A li ġej:

Zieda ta' l-artikolu 101A mal-Kostituzzjoni.

“Kummissjoni għall-Amministrazzjoni tal-Gustizzja. 101A. (1) Għandu jkun hemm Kummissjoni għall-Amministrazzjoni tal-Gustizzja li tkun magħmula mill-President, li jkun *Chairman*, u minn disa' membri oħra kif ġej:

(a) il-Prim Imħallef li jkun *Deputy Chairman* u jippresjedi l-Kummissjoni fin-nuqqas taç-*Chairman*;

(b) l-Avukat Ġenerali, *ex officio*;

(c) żewġ membri eletti għal żmien erba' snin mill-Imħallfin tal-Qrati Superjuri minn fosthom stess;

(d) żewġ membri eletti għal żmien erba' snin mill-Maġistrati tal-Qrati Inferjuri minn fosthom stess;

(e) żewġ membri mahturin għal żmien erba' snin, wiehed mill-Prim Ministru u l-iehor mill-Kap ta' l-Oppozizzjoni li f'kull każ ikunu persuna li mill-inqas ikollha l-eta' ta' hamsa u erbghin sena, u li tkun tgawdi r-rispett ġenerali tal-pubbliku u tkun magħrufa għall-integrità u onestà tagħha;

(f) il-President tal-Kamra ta' l-Avukati, *ex officio*.

(2) Il-President għandu jkollu biss il-vot deċiżiv; meta d-*Deputy Chairman* jippresiedi fuq xi laqgħa tal-Kummissjoni, għandu jzomm il-vot originali flimkien mal-vot deċiżiv.

(3) Il-membri eletti fil-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja għandhom jiġu eletti skond dawk ir-Regoli li jistgħu jiġu stabbiliti mill-persuna jew awtorità kif imsemmi fis-subartikolu (7) ta' l-artikolu 46 ta' din il-Konstituzzjoni.

(4) (a) Persuna ma tkunx kwalifikata li tinħatar jew tkompli żzomm il-kariga ta' membru tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja:

(i) jekk tkun Ministru, Segretarju Parlamentari, Membru tal-Kamra tad-Deputati jew membru ta' awtorità ta' gvern lokali; jew

(ii) jekk ikun instab hati ta' reat punibbli bi prigunerija għal kull żmien li jkun; jew

(iii) jekk ikun skwalifikat mill-jiġi elett bħala membru tal-Kamra tad-Deputati għal xi waħda mir-raġunijiet imsemmija fil-paragrafi (a), (c), (d), (e), (f), (g) jew (h) tas-subartikolu (1) ta' l-artikolu 54 ta' din il-Konstituzzjoni.

(b) Il-kariga ta' membru tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja ssir vakanti jekk jinholqu ċirkostanzi li, kieku dik il-persuna ma kenitx membru tal-Kummissjoni, hi ma kenitx tikkwalifika biex issir membru, u membru tal-Kummissjoni għandu jastjeni u jista' jiġi rikuzat fl-istess ċirkostanzi bhal imħallef tal-Qrati Superjuri.

(5) (a) Meta persuna timla' vakanza maħluqa minn membru tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja li ma jibqax membru għal xi raġuni, hlief

dik ta' l-iskadenza tal-perjodu tal-kariga tieghu, dik il-persuna ghandha tokkupa l-kariga ghaż-żmien mhux skadut tal-kariga ta' dak il-membri li jkun issostitwixxa.

(b) Meta membru jkun gie rikuzat jew ikun astjena, il-President li jagixxi skond il-gudizzju tieghu innifsu biss, jahtar bhala membru sostitwit biex joqghod fil-Kummissjoni ghall-Amministrazzjoni tal-Gustizzja kull fejn hu possibbli, persuna li fil-fehma tieghu jkollha kemm jista' jkun l-istess kwalitajiet u kwalifiki daqs il-membri li jkun qiegħed jigi sostitwit.

(c) Meta l-membri li għandhom jigu eletti taht il-paragrafi (c) u (d) tas-subartikolu (1) ta' dan l-artikolu, jew mahtura taht il-paragrafu (e) ta' l-istess subartikolu, ma jigux hekk eletti jew mahtura fi żmien gimghatejn minn meta ssir sejha għalhekk mill-President, il-President li fl-għemil ta' dik il-hatra jagixxi skond il-gudizzju tieghu biss għandu hu stess jahtar membri minflokhom li kull fejn hu possibbli fil-fehma tieghu jkollhom l-istess kwalitajiet u kwalifiki li għandu jkollhom dawk il-membri.

(6) (a) Il-Kummissjoni għall-Amministrazzjoni tal-Gustizzja għandha f'kull żmien ikollha Kumitat għall-Avukati u Prokuraturi Legali li jkollu dik il-kompożizzjoni, u dawk il-funzjonijiet, dawk is-setgħat u dmirijiet li jistgħu jigu assenjati lilu b'ligi. Il-Kummissjoni għandha fl-eżerċizzju ta' kull funzjoni tagħha relattiva għal professjonijiet ta' Avukati u Prokuraturi Legali, tagixxi permezz ta' l-imsemmi kumitat b'dak il-mod, u sugġett għal dik ir-reviżjoni kif dik il-ligi tista' tipprovdi.

(b) Minkejja d-dispożizzjonijiet tal-paragrafu (a) ta' dan is-subartikolu, il-Kummissjoni għandha tirreferi lill-Kumitat għall-Avukati u Prokuraturi Legali (hawn aktar 'il quddiem f'dan is-subparagrafu msejjah "il-Kumitat") kull kwistjoni li tirrigwarda l-imġieba hażina ta' avukat jew prokuratur legali fl-eżerċizzju tal-professjoni tagħhom, u, hlief f'każ ta' appell, il-Kummissjoni ma għandhiex tagixxi xort'oħra fuq dik il-kwistjoni hlief wara li tkun irċeviet u skond il-konkluzjonijiet tal-Kumitat f'dik il-materja. B'dana illi meta rapport tal-konkluzjonijiet tal-Kumitat ma jkunx għadu gie pprezentat lill-Kummissjoni fi żmien xahrejn mill-jum meta l-kwistjoni tkun tressqet l-ewwel darba quddiem il-Kumitat, jew f'dak il-perjodu iehor jew perjodi oħrajn li l-Kummissjoni tista' tippermetti, li fl-ebda każ, hlief għal raġunijiet eċċezzjonali hafna, ma għandhom jissuperaw l-erba' xhur, il-Kummissjoni għandha minnufih tinvestiga l-kwistjoni u taqtagħha hi nnifisha.

(ċ) Bla hsara għad-dispożizzjonijiet tal-paragrafu ta' qabel dan, il-Kummissjoni tista' taħtar dawk il-kumitati l-oħra biex jgħinuha fuq kull haġa li tiġi fil-funzjonijiet tagħha, kif jidhrilha xieraq.

(7) Fit-twettiq ta' dmirijietom il-membri tal-Kummissjoni u ta' xi wieħed mill-kumitati tagħha għandhom jaġixxu skond il-għudizzju individwali tagħhom u ma jkunux suġġetti għad-direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

(8) Is-subartikoli (2) u (3) ta' l-artikolu 121 ta' din il-Kostituzzjoni għandhom japplikaw għal kull kumitat tal-Kummissjoni.

(9) Għandu jkun hemm segretarju tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja li għandu jaġixxi wkoll bħala segretarju għal kull kumitat tal-Kummissjoni. Is-Segretarju tal-Kummissjoni għandu jinħatar mill-istess Kummissjoni minn fost l-uffiċjali pubbliċi li jkunu assenjati fil-Qrati jew minn fost membri tal-professjonijiet legali. Is-Segretarju għandu jibqa' fil-kariga sa dak iż-żmien li l-Kummissjoni ttemmlu l-hatra tiegħu.

(10) Min jinħatar membru tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja jew ta' xi wieħed mill-kumitati tagħha jista' jitneħħa mill-kariga tiegħu mill-President, li jaġixxi skond il-parir tal-korp jew persuna li taħtar dak il-membru, iżda dak il-membru jista' biss jitneħħa minhabba f'inkapaċità li jwettaq id-dmirijiet tal-kariga tiegħu (kemm jekk għal mard korporali jew mentali jew għal xi raġuni oħra) jew imġieba hażina.

(11) Il-funzjonijiet tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja huma:

(a) li tissorvelja l-hidma tal-qrati superjuri u inferjuri kollha u li tagħmel dawk ir-rakkomandazzjonijiet meħtieġa lill-ministru responsabbli għall-ġustizzja dwar ir-rimedji li fil-fehma tagħha jistgħu jwasslu għal hidma aktar effiċjenti ta' dawk il-qrati;

(b) li tagħti parir lill-ministru responsabbli għall-ġustizzja dwar kull haġa li għandha x'taqsam ma' l-organizzazzjoni ta' l-amministrazzjoni tal-ġustizzja;

(ċ) meta hekk mitluba mill-Prim Ministru li tagħti parir fuq kull hatra li għandha ssir skond l-artikoli 96, 98 u 100 ta' din il-Kostituzzjoni;

(d) li tiffurmula kodiċi jew kodiċijiet ta' etika li jirregolaw l-imġieba tal-membri tal-ġudikatura;

(e) fuq il-parir tal-Kumitat għall-Avukati u Prokuraturi Legali, li tifformula kodiċi jew kodiċijiet ta' etika li jirregolaw l-imġieba professjonali ta' membri ta' dawk il-professjonijiet:

Iżda meta dak il-parir ma jingħatax f'dak iż-żmien li l-Kummissjoni tista' tistabbilixxi, il-Kummissjoni tista' tifformula dak il-kodiċi jew dawk il-kodiċijiet mingħajr il-htieġa ta' dak il-parir;

(f) li tiġbed l-attenzjoni ta' kull imħallef jew maġistrat fuq kull haġa, fil-qorti li fiha hu jkun ipogġi, li ma tkunx konduċenti għal funzjonament effiċjenti u xieraq ta' dik il-Qorti, u li tiġbed l-attenzjoni ta' kull imħallef jew maġistrat għal xi aġir li jista' jolqot il-fiduċja li għandu minhabba l-kariga tiegħu, jew għal xi nuqqas minn naħa tiegħu li jimxi skond xi kodiċi jew kodiċijiet ta' etika li jkun japplika għalih;

(g) li teżerċita, skond kull liġi, dixxiplina fuq avukati u prokuraturi legali fit-twettiq tal-professjoni tagħhom; u

(h) dawk il-funzjonijiet l-oħra li jistgħu jingħatawliha b'kull liġi.

(12) Il-Kummissjoni għall-Amministrazzjoni tal-Gustizzja għandha ta' kull sena tagħmel rapport lill-ministru responsabbli għall-gustizzja dwar l-attivitajiet tagħha matul is-sena kalendarja ta' qabel, u għandha f'kull żmien meta hekk jidhirlha xieraq jew kif jista' jitlob l-istess ministru, tagħmel rapport lill-imsemmi ministru fuq xi materja partikolari.

(13) Is-setgħat tal-President taħt kull liġi, dwar is-surroga ta' l-imħallfin u l-maġistrati u dwar tqassim ta' dmirijiet ta' l-imħallfin u l-maġistrati, għandhom jitwettqu fuq il-parir tal-ministru responsabbli għall-gustizzja, b'dan illi l-ministru għandu, fl-ghoti ta' dak il-parir lill-President, jaġixxi skond ir-rakkomandazzjoni li tkun saritlu mill-Prim Imħallef:

Iżda meta l-Prim Imħallef jonqos milli jagħmel rakkomandazzjoni lill-ministru, u f'kull każ, meta l-ministru jqis li jkun hekk xieraq, il-ministru jista' jagħti parir lill-President, b'dak il-mod li, fiċ-ċirkostanzi, hu jidhirlu xieraq:

Iżda wkoll, f'dak il-każ il-Ministru għandu jippubblika minnufih fil-Gazzetta avviż dwar dak il-fatt li fih jagħti r-raġunijiet tiegħu għal dik l-azzjoni, u għandu jagħmel stqarrija dwar dak il-fatt fil-Kamra tad-Deputati mhux aktar tard mit-tieni seduta li tiġi minnufih wara li jkun ta dak il-parir lill-President.

(14) Il-kwistjoni jekk il-Kummissjoni għall-Amministrazzjoni tal-Gustizzja tkunx qdiet validament xi funzjoni mogħtija lilha bi jew skond din il-Kostituzzjoni ma għandhiex tiġi eżaminata minn ebda qorti.”.

Dispożizzjoni
transitorja.

3. Ir-regoli msemmija fis-subartikolu (3) ta' l-artikolu 101A tal-Kostituzzjoni kif emendati permezz ta' dan l-Att, għandhom isiru fi żmien xahar mid-dhul fis-seħħ ta' dan l-Att, u l-elezzjoni ta' l-ewwel membri tal-Kunsill, li ssir bis-saħħa ta' dawk ir-regoli, għandha ssir fi żmien hmistax-il jum wara dik id-data.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 247 tat-28 ta' Marzu, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati.

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

8th April, 1994

ACT No. IX of 1994

AN ACT to amend the Constitution of Malta

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. This Act may be cited as the Constitution of Malta (Amendment) Act, 1994 and shall be read and construed as one with the Constitution of Malta, hereinafter referred to as “the Constitution”.

Short title.

2. Immediately after section 101 of the Constitution, there shall be added the following section 101A as follows:

Addition of section 101A to the Constitution.

“Commission for the Administration of Justice.

101A. (1) There shall be a Commission for the Administration of Justice which shall consist of the President, who shall be the Chairman, and nine other members as follows:

(a) The Chief Justice who shall be Deputy Chairman and shall preside over the Commission in the absence of the Chairman;

(b) the Attorney General, *ex officio*;

(c) two members elected for a period of four years by the Judges of the Superior Court from among themselves;

(d) two members elected for a period of four years by the Magistrates of the Inferior Courts from among themselves;

(e) two members appointed for a period of four years as to one by the Prime Minister and as to the other by the Leader of the Opposition, being in each case, a person of at least forty five years of age, and who enjoys the general respect of the public and a reputation of integrity and honesty;

(f) the President of the Chamber of Advocates, *ex officio*.

(2) The President shall only have a casting vote; when the Deputy Chairman presides over a meeting of the Commission he shall retain his original vote together with the casting vote.

(3) The members elected to the Commission for the Administration of Justice shall be elected in accordance with such Rules as may be prescribed by the person or Authority referred to in subsection (7) of section 46 of this Constitution.

(4) (a) A person shall not be qualified to be appointed or continue to hold office as a member of the Commission for the Administration of Justice:

(i) if he is a Minister, a Parliamentary Secretary, a Member of the House of Representatives or a member of a local government authority; or

(ii) if he has been convicted of any crime punishable by imprisonment for any term; or

(iii) if he is disqualified to be elected as a member of the House of Representatives for any of the reasons stated in paragraphs (a), (c), (d), (e), (f), (g) or (h) of subsection (1) of section 54 of this Constitution.

(b) The office of a member of the Commission for the Administration of Justice shall become vacant if any circumstances arise that if he were not a member of the Commission he would not qualify for membership thereof, and a member of the Commission may abstain or be challenged in the same circumstances as a judge of the superior courts.

(5) (a) Where a person fills a vacancy caused by a member of the Commission for the Administration of Justice ceasing to be such a member for any reason, other than the expiration of the period of office, such person shall hold office for the unexpired period of office of the member he replaces.

(b) Where a member of the Commission has been challenged or has abstained, the President acting in accordance with his own deliberate judgement shall appoint as a substitute member to sit on the Commission, a person who in his opinion has as far as may be the same qualities and qualifications as the member substituted.

(c) Where the members who, are to be elected under paragraph (c) and (d) of subsection (1) of this section, or who are to be appointed under paragraph (e) of the same subsection, are not so elected or appointed within two weeks from a call for the purpose by the President, the President who in making such appointment shall act in accordance with his own deliberate judgement shall himself appoint members in their stead who where possible in his opinion shall have the same qualities and qualifications as such members.

(6) (a) The Commission for the Administration of Justice shall at all times have a committee for Advocates and Legal Procurators which shall have such composition, functions, powers and duties as may be assigned to it by law. The Commission shall in the exercise of any of its functions in relation to the professions of Advocates and Legal Procurators act through the said committee in such manner and subject to such review as may by the said law be provided.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the Commission shall refer to the Committee for Advocates and Legal Procurators (hereinafter in this section referred to as "the Committee") any matter concerning the misconduct of an advocate or legal procurator in the exercise of their profession, and, saving in the case of an appeal, the Commission shall not act otherwise than on receipt of, and in accordance with, the findings of the Committee in any such matter. So however that, where a report of findings by the Committee has not been submitted to the Commission within two months from the day on which the matter was brought before the Committee, or within such further period or periods as the Commission may allow, which shall in no case, except for very exceptional reasons, exceed a further four months, the Commission shall thereupon itself investigate and determine the matter.

(c) Without prejudice to the provisions of the foregoing paragraph the Commission may appoint such other committees to assist it on any matter falling within its functions as it may deem fit.

(7) In the exercise of their functions the members of the Commission and of any of its committees shall act on

their individual judgement and shall not be subject to the direction or control of any person or authority.

(8) Subsections (2) and (3) of section 121 of this Constitution shall apply to any committee of the Commission.

(9) There shall be a secretary of the Commission for the Administration of Justice who shall also act as secretary of any committee of the Commission. The Secretary of the Commission shall be appointed by the Commission from among public officers assigned to the Courts or from among members of the legal professions. The Secretary shall hold office until such time as his appointment is terminated by the Commission.

(10) A person appointed as a member of the Commission for the Administration of Justice or any of its committees may be removed from office by the President, acting in accordance with the advice of the body or the holder of the office appointing such member, but he may be removed only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(11) The functions of the Commission for the Administration of Justice shall be:

(a) to supervise the workings of all the superior and inferior courts and to make such recommendations to the minister responsible for justice as to the remedies, which appear to it, conducive to a more efficient functioning of such courts;

(b) to advise the minister responsible for justice on any matter relating to the organisation of the administration of justice;

(c) when so requested by the Prime Minister, to advise on any appointment to be made in terms of sections 96, 98 or 100 of this Constitution;

(d) to draw up a code or codes of ethics regulating the conduct of members of the judiciary;

(e) on the advice of the Committee for Advocates and Legal Procurators to draw up a code or codes of ethics regulating the professional conduct of members of those professions:

Provided that where such advice is not given within such time as the Commission may establish, the Commission may draw up such code or codes without the necessity of such advice.

(f) to draw the attention of any judge or magistrate on any matter, in any court in which he sits, which may not be conducive to an efficient and proper functioning of such court, and to draw the attention of any judge or magistrate to any conduct which could effect the trust conferred by their appointment, or to any failure on his part to abide by any code or codes of ethics relating to him;

(g) to exercise, in accordance with any law, discipline over advocates and legal procurators practising their profession; and

(h) such other function as may be assigned to it by law.

(12) The Commission for the Administration of Justice shall each year make a report to the Minister responsible for justice on its activities during the previous calendar year, and shall at any time, when it deems fit or as may be required by the said minister, make a report on any particular matter to the said minister.

(13) The powers of the President under any law with regard to the subrogation of Judges and Magistrates and to the assignment of duties of Judges and Magistrates shall be exercised on the advice of the minister responsible for justice, so however that, the minister shall, in advising the President, act in accordance with any recommendation on the matter by the Chief Justice:

Provided that where the Chief Justice fails to make a recommendation to the minister, and in any case where the minister deems it so appropriate, the minister may advise the President on the matter, in any manner which, in the circumstances, he considers appropriate:

Provided further than in any such case he shall immediately publish in the Gazette, a notice of that fact together with the reasons therefor, and he shall make a statement of such fact in the House of Representatives not later than the second sitting immediately after he has so advised the President.

(14) The question whether the Commission for the Administration of Justice has validly performed any function vested in it by or under this Constitution shall not be enquired into in any court.”.

Transitory
provision.

3. The rules referred to in subsection (3) of section 101A of the Constitution, as amended by this Act, shall be made within one month of the coming into force of this Act, and the election of the first members of the Commission under those rules shall be held within fifteen days thereafter.

Passed by the House of Representatives at Sitting No. 247 of the 28th March, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.

