

MALTA

ATT Nru. XIV ta' l-1987

ATT maħruġ b'liġi mill-Parlament ta' Malta.

ATT li jipprovdi sabiex l-Artikoli sostantivi tal-Konvenzjoni Ewropea għall-Protezzjoni tad-Drittijiet tal-Bniedem u tal-Libertajiet Fondamentali, isiru u jkunu eżegwibbli bħala, parti mil-Liġi ta' Malta.

ACT No. XIV of 1987

AN ACT enacted by the Parliament of Malta.

AN ACT to make provision for the substantive Articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to become and be enforceable as, part of the Law of Malta.

Naghti l-kunsens tiegħi.

(L.S.)

PAUL XUEREB
Agent President

19 ta' Awissu, 1987

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ATT li jipprovdi sabiex l-Artikoli sostantivi tal-Konvenzjoni Ewropea għall-Protezzjoni tad-Drittijiet tal-Bniedem u tal-Libertajiet Fondamentali, isiru u jkunu eżegwibbli bhala, parti mil-Liġi 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'liġi dan li ġej:—

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1987 dwar il-Konvenzjoni Ewropea. Titolu fil-qosor.
2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġ xort'ohra — Tifsir.

“Konvenzjoni” tfisser il-Konvenzjoni għall-Protezzjoni tad- Drittijiet tal-Bniedem u tal-Libertajiet Fondamentali ffirmata f'Ruma fl-4 ta' Novembru, 1950, u l-Ewwel, it-Tieni, it-Tielet u l-Hames Protokoll li hemm magħha ffirmati f'Parigi fl-20 ta' Marzu, 1952, u fi Strasbourg fis-6 ta' Mejju, 1963, fis-6 ta' Mejju, 1963, u fl-20 ta' Jannar 1966, rispettivament;

“Drittijiet tal-Bniedem u Libertajiet Fondamentali” tfisser dawk id-drittijiet u libertajiet elenkati fl-Artikoli minn 2 sa 18 (magħdudin) ta' l-Konvenzjoni u l-Artikoli minn 1 sa 3 (magħdudin) ta' l-Ewwel Protokoll li hemm mal-Konvenzjoni liema Artikoli qegħdin jingiebu fl-Ewwel Skeda li tinsab ma' dan l-Att;

“liġi ordinarja” tfisser kull dokument li għandu s-sahħa ta' Liġi u kull regola ta' liġi mhux miktuba, minbarra l-Kostituzzjoni ta' Malta;

“persuna” tinkludi kull persuna fiżika, organizzazzjoni li ma tkunx governattiva, jew grupp ta' individwi.

3. (1) Id-Drittijiet tal-Bniedem u Libertajiet Fondamentali għandhom isiru, u jkunu eżegwibbli bhala, parti mil-Liġi ta' Malta.

Eżegwibbiltà
tal-Konvenzjoni.

(2) Fejn ikun hemm xi liġi ordinarja li tkun inkonsistenti mad-Drittijiet tal-Bniedem u Libertajiet Fondamentali, l-imsemmija Drittijiet u Libertajiet Fondamentali għandhom jipprevalu, u dik il-liġi ordinarja għandha, safejn tkun inkonsistenti, tkun bla effett.

(3) Id-Drittijiet tal-Bniedem u Libertajiet Fondamentali ghandhom ikunu eżegwibbli skond id-Dikjarazzjoni u Riżervi maghmulin mill-Gvern ta' Malta meta giet iffirmata il-Konvenzjoni fit-12 ta' Diċembru, 1966, liema Dikjarazzjoni u Konvenzjoni qeghdin jingiebu fit-Tieni Skeda li tinsab ma' dan l-Att.

(4) Il-Qorti Kostituzzjonali ghandha b'zieda mal-ġurisdizzjoni moghtija lilha mill-artikolu 95 tal-Kostituzzjoni, ikollha ġurisdizzjoni li tisma' u tiddeċiedi l-appelli kollha maghmula taht dan l-Att u li teżerċita dawk is-setgħat moghtija b'dan l-Att.

Proċedura għall-eżekuzzjoni tad-Drittijiet tal-Bniedem u Libertajiet Fondamentali.

4. (1) Kull persuna li tallega li xi wiehed mid-Drittijiet tal-Bniedem u Libertajiet Fondamentali jkun ġie, ikun qed jiġi jew ikun x'aktarx ser jiġi miksura dwarha, jew kull persuna oħra li l-Prim'Awla tal-Qorti Ċivili f'Malta tista' tahtar ad istanza ta' xi persuna li hekk tallega, tista' bla ħsara għal kull azzjoni oħra dwar l-istess haġa li tkun tista' ssir legalment, titlob lill-Prim'Awla tal-Qorti Ċivili għal rimedju.

(2) Il-Prim'Awla tal-Qorti Ċivili ghandha jkollha ġurisdizzjoni oriġinali li tisma' u tiddeċiedi kull talba maghmula minn xi persuna skond is-subartikolu (1) ta' dan l-artikolu, u tista' tagħmel dawk l-ordnijiet, toħroġ dawk l-atti u tagħti dawk id-direttivi li tqis xierqa sabiex twettaq, jew tiżgura t-twettiq tad-Drittijiet tal-Bniedem u Libertajiet Fondamentali li għat-tgawdija tagħhom tkun intitolata dik il-persuna:

Izda l-qorti tista', jekk tqis li jkun desiderabbli li hekk tagħmel, tirrifjuta li teżerċita s-setgħat tagħha skond dan is-subartikolu f'kull każ meta tkun sodisfatta li mezzi xierqa ta' rimedju għall-ksur allegat huma jew kienu disponibbli favur dik il-persuna skond xi liġi ordinarja oħra.

(3) Jekk f'xi proċeduri f'xi qorti li ma tkunx il-Prim'Awla tal-Qorti Ċivili jew il-Qorti Kostituzzjonali tqum xi kwistjoni dwar il-ksur ta' xi wiehed mid-Drittijiet tal-Bniedem u Libertajiet Fondamentali, dik il-Qorti ghandha tibgħat il-kwistjoni quddiem il-Prim'Awla tal-Qorti Ċivili kemm-il darba fil-fehma tagħha t-tqanqil tal-kwistjoni ma tkunx sempliċement frivola jew vessatorja; u dik il-qorti ghandha tagħti d-deċiżjoni tagħha fuq kull kwistjoni mibgħuta quddiemha skond dan is-subartikolu u, bla ħsara għad-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu, il-qorti li quddiemha tkun qamet il-kwistjoni ghandha tiddisponi mill-kwistjoni skond dik id-deċiżjoni.

(4) Kull parti fi proċeduri miġjuba quddiem il-Prim'Awla tal-Qorti Ċivili skond dan l-artikolu jkollha dritt ta' appell quddiem il-Qorti Kostituzzjonali.

(5) Ma jkunx hemm appell minn xi deċiżjoni skond dan l-artikolu li xi talba jew it-tqanqil ta' xi kwistjoni tkun sempliċement frivola jew vessatorja.

(6) Ir-Regolamenti tal-Qorti maghmula skond is-subartikolu (7) ta' l-artikolu 46 tal-Kostituzzjoni kif minn żmien għal żmien fis-seħh, ghandhom japplikaw *mutatis mutandis* dwar il-prattika u proċedura tal-qrati għall-finijiet ta' dan l-artikolu daqs li kieku l-proċedimenti maghmulin taht dan l-artikolu kienu proċedimenti maghmulin taht l-artikolu 46 tal-Kostituzzjoni.

(7) Meta jiġi allegat illi xi wiehed mid-Drittijiet tal-Bniedem u Libertajiet Fondamentali u xi wiehed mid-dispożizzjonijiet tal-artikoli 33 sa 45 (maghdudin) tal-Kostituzzjoni ġie, ikun qed jiġi jew x'aktarx ser jiġi miksura, it-talba għar-rimedju jew ir-riferenza lill-Prim'Awla tal-Qorti Ċivili skond l-artikolu 46 tal-Kostituzzjoni u dan l-artikolu, tista' ssir fl-istess rikors jew riferenza.

(8) Meta rikors għal rimedju jew riferenza lill-Prim'Awla tal-Qorti Ċivili magħmula wara t-30 ta' April, 1987 tkun magħmula biss jew taht l-artikolu 46 tal-Kostituzzjoni jew taht dan l-artikolu u tkun għadha pendenti quddiem il-Prim'Awla tal-Qorti Ċivili jew il-Qorti Kostituzzjonali, il-Qorti tista' teżamina jekk il-fatti allegati jkunux jew le, jivvolaw id-Drittijiet tal-Bniedem u Libertajiet Fondamentali li jikkorrispondu għalihom fl-ewwel każ, jew id-Drittijiet u Libertajiet Fondamentali tal-Individwu eżegwibbli taht il-Kostituzzjoni, fit-tieni każ; u jekk il-qorti hekk issib tkun tista' tagħti r-rimedju li jidhrilha xieraq skond il-każ taht wahda mil-liġijiet imsemmija.

5. L-ebda persuna ma għandha tiġi mfixxkla fl-eżerċizzju tad-dritt taġħha li tagħmel petizzjoni lis-Segretarju-Ġenerali tal-Kunsill ta' l-Ewropa skond id-dispożizzjonijiet ta' l-Artikolu 25 tal-Konvenzjoni u ta' l-Artikoli kollha ta' l-istess Konvenzjoni li għandhom x'jaqsmu.

Dritt ta
Petizzjoni
Individwali.

6. (1) Kull deċiżjoni tal-Qorti Ewropea tad-Drittijiet tal-Bniedem li għaliha tkun tapplika dikjarazzjoni magħmula mill-Gvern ta' Malta skond l-Artikolu 46 tal-Konvenzjoni, tista' tiġi eżegwita mill-Qorti Kostituzzjonali f'Malta, bl-istess mod bħal deċiżjonijiet mogħtija minn dik il-Qorti u jiġu eżegwiti minnha, b'rikors li jsir fil-Qorti Kostituzzjonali u notifikat lill-Avukat Ġenerali, li jkun fih talba li tiġi ordnata l-eżegwibbiltà ta' dik id-deċiżjoni.

Eżegwibbiltà tad-
deċiżjonijiet tal-
Qorti Ewropea
tad-Drittijiet
tal-Bniedem.

(2) Qabel ma l-Qorti Kostituzzjonali tiddeċiedi talba bħal dik, hija għandha teżamina jekk id-deċiżjoni tal-Qorti Ewropea tad-Drittijiet tal-Bniedem li jkun qed jintalab li tiġi eżegwita, hijiex wahda li għaliha tkun tapplika dikjarazzjoni bħal dik imsemmija fis-subartikolu (1) ta' dan l-artikolu.

(3) Il-Qorti Kostituzzjonali għandha tordna l-eżekuzzjoni ta' deċiżjoni kif imsemmi f'dan l-artikolu jekk tiddeċiedi li din id-deċiżjoni tkun wahda li għaliha tkun tapplika dikjarazzjoni msemija fis-subartikolu (2) ta' dan l-artikolu.

7. Ebda ksur tad-Drittijiet tal-Bniedem u Libertajiet Fondamentali imwettaq qabel it-30 ta' April, 1987, ma għandu jagħti lok għat-tehid ta' azzjoni taht l-artikolu 4 ta' dan l-Att.

Dispożizzjoni
transitorja.

L-EWWEL SKEDA

(Artikolu 2)

L-Artikoli 2 sa 18 tal-Konvenzjoni għall-Protezzjoni tad-Drittijiet tal-Bniedem u Libertajiet Fondamentali.

ARTIKOLU 2

(1) Id-dritt għall-ħajja ta' kulhadd għandu jiġi protett b'liġi. Hadd ma għandu jiġi ipprivat mill-ħajja tiegħu intezjonalment hlief fl-esekuzzjoni tas-sentenza ta' qorti wara li jiġi misjub ħati ta' delitt li dwaru tkun provduta mil-liġi din il-piena.

(2) Il-privazzjoni tal-ħajja ma għandhiex titqies bhala magħmula bi ksur ta' dan l-Artikolu meta jirriżulta mill-użu ta' forza li ma jkunx aktar minn dak li jkun assolutament meħtieġ:

- (a) fid-difiża ta' xi hadd minn vjolenza illegali;
- (b) sabiex jiġi effettwat arrest skond il-liġi jew tiġi evitata l-ħarba ta' xi hadd detenut skond il-liġi;
- (ċ) f'azzjoni mehuda skond il-liġi sabiex tiġi megħluba rewwixta jew insurrezzjoni.

ARTIKOLU 3

Hadd ma ghandu jkun assoġġettat għal tortura jew għal trattament jew piena inumana jew degradanti.

ARTIKOLU 4

- (1) Hadd ma ghandu jinżamm fi skjavitù jew f'servitù.
- (2) Hadd ma ghandu jkun imġieghel jagħmel xogħol forzat jew obligatorju.
- (3) Għall-fini ta' dan l-Artikolu l-frazi "xogħol forzat jew obligatorju" ma tinkludix:
 - (a) xogħol mehtieg li jsir fil-kors ordinarju ta' detenzjoni imposta skond id-dispożizzjonijiet ta' l-Artikolu 5 ta' din il-Konvenzjoni jew waqt il-libertà kondizzjonata minn dik id-detenzjoni;
 - (b) servizz ta' karattru militari jew, f'każ ta' persuni oġġezzjonanti minhabba l-kuxjenza f'pajjiżi fejn huwa hekk rikonoxxut, servizz imġieghel minflok servizz militari obligatorju;
 - (c) servizz imġieghel f'każ ta' emerġenza jew ta' kalamità li thedded il-hajja jew il-ġid tal-komunità;
 - (d) xogħol jew servizz li jiffirma parti mill-obbligi ċiviċi normali.

ARTIKOLU 5

- (1) Kulhadd ghandu d-dritt għal-libertà u għas-sigurtà tal-persuna.

Hadd ma ghandu jiġi ipprivat mil-libertà tiegħu hliet fil-każijiet li ġejjin u skond il-proċedura preskritta bil-liġi:

- (a) id-detenzjoni skond il-liġi ta' persuna wara li tinsab hatja minn qorti kompetenti;
- (b) l-arrest jew id-detenzjoni skond il-liġi ta' persuna għal nuqqas ta' tharis ta' ordni skond il-liġi ta' qorti jew sabiex jiġi żgurat it-twettiq ta' xi obbligu preskritt mil-liġi;
- (c) l-arrest jew detenzjoni skond il-liġi ta' persuna effettwata sabiex tiġi miġjuba quddiem l-awtorità legali kompetenti fuq suspett raġonevoli li tkun ikkomettet reat jew meta jkun meqjus raġonevolment mehtieg biex jiġi evitat li tikkommetti reat jew li tahrab wara li tkun għamlet reat;
- (d) id-detenzjoni ta' minuri b'ordni skond il-liġi għall-iskop ta' sorveljanza edukattiva jew id-detenzjoni tiegħu skond il-liġi sabiex jiġi miġjub quddiem l-awtorità legali kompetenti;
- (e) id-detenzjoni skond il-liġi ta' persuni biex jiġi evitat it-tixrid ta' mard infettiv, ta' persuni mhux f'sensihom, addetti għall-alkohol jew għad-drogi jew vagabondi;
- (f) l-arrest jew id-detenzjoni skond il-liġi ta' persuna biex jiġi evitat li tidhol mingħajr awtorità fil-pajjiż jew ta' persuna li kontra tagħha tkun qed issir kawża għad-deportazzjoni jew għall-estradiżzjoni.

- (2) Kull min ikun arrestat għandu jiġi informat minnufih, f'lingwa li jifhem, dwar ir-raġunijiet ta' l-arrest tiegħu u dwar kull akkuża kontra tiegħu.

- (3) Kull min ikun arrestat jew detenut skond id-dispożizzjonijiet tal-paragrafu 1 (c) ta' dan l-Artikolu għandu jinġiebi minnufih quddiem imhalef jew funzjonarju ieħor awtorizzat b'liġi biex jeżerċita setgħa ġudizzjarja u jkollu dritt għal proċeduri fi żmien raġonevoli jew għal helsien waqt pendenza tal-

proċeduri. Il-helsien jista' jkun taht kondizzjoni ta' garanzji biex jidher għall-proċeduri.

(4) Kull min ikun ipprivat mil-libertà tiegħu b'arrest jew detenzjoni jkollu dritt li jagħmel proċeduri biex il-legalità tad-detenzjoni tiegħu tiġi deċiża malajr minn qorti u l-libertà tiegħu tiġi ordnata jekk id-detenzjoni ma tkunx skond il-liġi.

(5) Kull min ikun vittima ta' arrest jew detenzjoni bi ksur tad-dispożizzjonijiet ta' dan l-Artikolu jkollu dritt esegwibbli għal kumpens.

ARTIKOLU 6

(1) Fid-deċiżjoni tad-drittijiet ċivili u ta' l-obbligi tiegħu jew ta' xi akkuża kriminali kontra tiegħu, kulhadd huwa intitolat għal smiġħ imparzjali u pubbliku fi żmien raġonevoli minn tribunal indipendenti u imparzjali mwaqqaf b'liġi. Is-sentenza għandha tingħata pubblikament iżda l-istampa u l-pubbliku jista' jiġi eskluż mill-proċeduri kollha jew minn parti minnhom fl-interess tal-morali, ta' l-ordni pubbliku jew tas-sigurtà nazzjonali f'soċjetà demokratika, meta l-interessi tal-minuri jew il-protezzjoni tal-hajja privata tal-partijiet hekk teħtieġ, jew safejn ikun rigorozament meħtieġ fil-fehma tal-qorti f'ċirkostanzi speċjali meta l-pubblicità tista' tippregudika l-interessi tal-gustizzja.

(2) Kull min ikun akkużat b'reat kriminali għandu jiġi meqjus li jkun innoċenti sakemm ma jiġix pruvat hati skond il-liġi.

(3) Kull min ikun akkużat b'reat kriminali għandu d-drittijiet minimi li ġejjin:

(a) li jkun infurmat minnufih, b'lingwa li jifhem u bid-dettal, dwar in-natura u r-raġuni ta' l-akkuża kontra tiegħu;

(b) li jkollu żmien u faċilitajiet xierqa għall-preparazzjoni tad-difiża tiegħu;

(ċ) li jiddefendi ruħu personalment jew permezz ta' assistenza legali magħzula minnu stess jew, jekk ma jkollux mezzi biżżejjed li jhallas l-assistenza legali, din għandha tingħata lilu b'xejn meta l-interessi tal-gustizzja jeħtieġu hekk;

(d) li jeżamina jew li jara li jiġu eżaminati xhieda kontra tiegħu u li jottjeni l-attendenza u l-eżami ta' xhieda favur tiegħu taht l-istess kondizzjonijiet bħax-xhieda kontra tiegħu;

(e) li jkollu assistenza b'xejn ta' interpretu jekk ma jkunx jifhem jew jittellem il-lingwa użata fil-qorti.

ARTIKOLU 7

(1) Hadd ma għandu jitqies li jkun hati ta' reat kriminali minhabba f'xi att jew omissjoni li ma kenux jikkostitwixxu reat kriminali skond liġi nazzjonali jew internazzjonali fil-hin meta jkun sar. Lanqas ma għandha tingħata piena akbar minn dik li kienet applikabbli fiż-żmien meta r-reat kriminali jkun sar.

(2) Dan l-Artikolu ma għandux jippregudika l-proċeduri u l-applikazzjoni tal-piena dwar xi hadd għal xi att jew omissjoni li fiż-żmien meta jkun sar, kien kriminali skond il-prinċipji generali tal-liġi rikonoxxuti min-nazzjonijiet ċivilizzati.

ARTIKOLU 8

(1) Kulhadd għandu d-dritt għar-rispett tal-hajja privata tiegħu u tal-familja tiegħu, ta' daru u tal-korrispondenza tiegħu.

(2) Ma ghandux ikun hemm indhil minn awtorità pubblika dwar l-eżerċizzju ta' dan id-dritt hliet dak li jkun skond il-liġi u li jkun mehtieg f'soċjetà demokratika fl-interessi tas-sigurtà nazzjonali, sigurtà pubblika jew il-ġid ekonomiku tal-pajjiż, biex jiġi evitat id-diżordni jew l-eghmil ta' delitti, għall-protezzjoni tas-saħħa jew tal-morali, jew għall-protezzjoni tad-drittijiet u libertajiet ta' haddiehor.

ARTIKOLU 9

(1) Kulhadd ghandu d-dritt għal-libertà tal-hsieb, kuxjenza u reliġjon; dan id-dritt jinkludi l-libertà li jbidel ir-reliġjon jew twemmin tieghu u l-libertà, sew wahdu kemm ma' ohrajn u pubblikament jew privatament, li juri r-reliġjon jew it-twemmin tieghu, fil-kult, tagħlim, prattika u osservanza.

(2) Il-libertà li wiehed juri r-reliġjon jew it-twemmin tieghu tkun suġġetta biss għal dawk il-limitazzjonijiet li jkunu preskritti b'liġi u li jkunu mehtieġa f'soċjetà demokratika fl-interessi tas-sigurtà pubblika, għall-protezzjoni ta' l-ordni pubbliku, tas-saħħa jew tal-morali, jew għall-protezzjoni tad-drittijiet u libertajiet ta' haddiehor.

ARTIKOLU 10

(1) Kulhadd ghandu d-dritt għal-libertà ta' espressjoni. Dan id-dritt jinkludi l-libertà li jkollu opinjonijiet u li jirċievi u jagħti informazzjoni u ideat minghajr indhil mill-awtorità pubblika u minghajr ma jittiehed kont ta' fruntieri. Dan l-Artikolu ma ghandux jimpedixxi Stati milli jehtieġu liċenzi għax-xandir, televiżjoni jew impriżi ċinematografiċi.

(2) L-eżerċizzju ta' dawn il-libertajiet, billi jġib mieghu dmirijiet u responsabbiltajiet, jista' jkun suġġett għal dawk il-formalitajiet, kondizzjonijiet, restrizzjonijiet jew penali kif preskritti b'liġi u li jkunu mehtieġa f'soċjetà demokratika, fl-interessi tas-sigurtà nazzjonali, integrità territorjali jew sigurtà pubblika, biex jiġi evitat id-diżordni jew l-eghmil ta' delitti, għall-protezzjoni tas-saħħa jew tal-morali, għall-protezzjoni tar-riputazzjoni jew drittijiet ta' haddiehor, biex jiġi evitat il-kxif ta' informazzjoni riċevuta b'sigriet, jew biex tiġi miżmuma l-awtorità u l-imparzjalità tal-ġudikatura.

ARTIKOLU 11

(1) Kulhadd ghandu d-dritt għal-libertà ta' għaqda paċifika u għal-libertà ta' assoċjazzjoni ma' ohrajn, inkluż id-dritt li wiehed jiffirma u jidhol fi *trade unions* għall-protezzjoni ta' l-interessi tieghu.

(2) Ma ghandu jkun hemm ebda restrizzjonijiet fuq l-eżerċizzju ta' dawn id-drittijiet hliet dawk li jkunu preskritti b'liġi u li jkunu mehtieġa f'soċjetà demokratika fl-interessi tas-sigurtà nazzjonali jew tas-sigurtà pubblika, biex jiġi evitat id-diżordni jew l-eghmil ta' delitti, għall-protezzjoni tas-saħħa jew tal-morali jew għall-protezzjoni tad-drittijiet u libertajiet ta' haddiehor. Dan l-Artikolu ma ghandux jimpedixxi l-imposizzjoni ta' restrizzjonijiet skond il-liġi fuq l-eżerċizzju ta' dawn id-drittijiet minn membri tal-forzi armati, tal-pulizija jew ta' l-amministrazzjoni ta' l-Istat.

ARTIKOLU 12

L-irġiel u n-nisa ta' età ta' żwieġ ghandhom id-dritt li jiżżewġu u li jkollhom familja, skond il-liġijiet nazzjonali li jirregolaw l-eżerċizzju ta' dan id-dritt.

ARTIKOLU 13

Kulmin ikollu miksura d-drittijiet u l-libertajiet tieghu kontemplati f'din il-Konvenzjoni ghandu jkollu rimedju effettiv quddiem awtorità nazzjonali ghal-kemm dak il-ksur ikun sar minn persuni li jkunu qed jaġixxu f'kariga ufficjali.

ARTIKOLU 14

It-tgawdija tad-drittijiet u libertajiet kontemplati f'din il-Konvenzjoni ghandha tiġi assicurata minghajr diskriminazzjoni minhabba s-sess, razza, kulur, lingwa, reliġjon, opinjoni politika jew opinjoni oħra, origini nazzjonali jew soċjali, assoċjazzjoni ma' minoranza nazzjonali, proprjetà, twelid jew status iehor.

ARTIKOLU 15

(1) Fi żmien ta' gwerra jew ta' emergenza oħra pubblika li thedded il-hajja tan-nazzjon kull Parti Għolja Kontraenti tista' tiehu miżuri li jnaqqsu l-obbligi tagħha skond il-Konvenzjoni safejn ikun rigorożament meħtieġ mill-esiġenzi tas-sitwazzjoni, basta li dawk il-miżuri ma jkunux inkonsistenti ma' l-obbligi l-oħra tagħha skond il-liġi internazzjonali.

(2) Ma ghandha ssir bis-saħha ta' din id-dispożizzjoni ebda deroga mill-Artikolu 2 hliet dwar mewtijiet li jirriżultaw minn atti leġittimi ta' gwerra, jew mill-Artikoli 3, 4 (paragrafu 1) u 7.

(3) Kull Parti Għolja Kontraenti li tagħmel użu minn dan id-dritt ta' deroga ghandha tinforma b'kollox lis-Segretarju-Ġenerali tal-Kunsill ta' l-Ewropa dwar il-miżuri li tkun hadet u r-raġunijiet tagħhom. Ghandha wkoll tinforma lis-Segretarju-Ġenerali tal-Kunsill ta' l-Ewropa dwar il-miżuri li tkun hadet u r-raġunijiet tagħhom. Ghandha wkoll tinforma lis-Segretarju-Ġenerali tal-Kunsill ta' l-Ewropa meta dawk il-miżuri jkunu spiċċaw li joperaw u d-dispożizzjonijiet tal-Konvenzjoni jkunu qegħdin jergħu jiġu esegwiti kompletament.

ARTIKOLU 16

Ebda haġa li hemm fl-Artikoli 10, 11 u 14 ma ghandha tittiehed li timpedixxi lill-Partijiet Għolja Kontraenti milli jimponu restrizzjonijiet fuq l-attività politika ta' strangieri.

ARTIKOLU 17

Ebda haġa li hemm f'din il-Konvenzjoni ma ghandha tiġi interpretata li xi Stat, grupp jew persuna ghandha xi dritt li tidhol f'xi attività jew tagħmel xi att mahsub biex jeqred xi wiehed mid-drittijiet u mil-libertajiet kontemplati f'din il-Konvenzjoni jew biex tillimitahom aktar minn dak provdut fil-Konvenzjoni.

ARTIKOLU 18

Ir-restrizzjonijiet permessi skond din il-Konvenzjoni għall-imsemmija drittijiet u libertajiet ma ghandhomx jiġu applikati għal xi skop iehor hliet dawk li għalihom huma jkunu ġew preskritti.

L-Artikoli minn 1 sa 3 ta' l-Ewwel Protokoll li hemm mal-Konvenzjoni għall-Protezzjoni tad-Drittijiet tal-Bniedem u tal-Libertajiet Fondamentali.

ARTIKOLU 1

Kull persuna naturali jew persuna morali għandha dritt għat-tgawdija paċifika tal-possedimenti tagħha. Hadd ma għandu jiġi ipprivat mill-possedimenti tiegħu hlief fl-interess pubbliku u bla ħsara tal-kondizzjonijiet provduti bil-liġi u bil-prinċipji ġenerali tal-liġi internazzjonali.

Izda d-dispożizzjonijiet ta' qabel ma għandhom b'ebda mod inaqqsu d-dritt ta' Stat li jinforza dawk il-liġijiet li jidhrulu xierqa biex jikkontrolla l-użu ta' proprjetà skond l-interess ġenerali jew biex jiżgura l-hlas ta' taxxi jew kontribuzzjonijiet oħra jew pjeni.

ARTIKOLU 2

Hadd ma għandu jiġi ipprivat mid-dritt għall-edukazzjoni. Fl-eżerċizzju ta' kull funzjonijiet li jassumi dwar edukazzjoni u tagħlim, l-Istat għandu jirrispetta d-dritt tal-ġenituri li jiżguraw dik l-edukazzjoni u dak it-tagħlim in konformità mal-konvinzjonijiet tagħhom religjużi u filosofiċi.

ARTIKOLU 3

Il-Partijiet Għolja Kontraenti jobbligaw ruħhom li jzommu elezzjonijiet liberi f'intervalli xierqa b'votazzjoni sigrieta, taħt konsiderazzjonijiet li jiżguraw l-espressjoni libera ta' l-opinjoni tal-poplu fl-għażla tal-legislatura.

IT-TIENI SKEDA

(Artikolu 3)

**DIKJARAZZJONI U RIŻERVI
MAGĦMULIN MILL-GVERN TA' MALTA META
GEW IFFIRMATI L-KONVENZJONI U L-PROTOKOLL
(12 TA' DIĊEMBRU 1966)**

1. Dikjarazzjoni ta' interpretazzjoni

Il-Gvern ta' Malta jiddikjara li qieghed jinterpreta l- paragrafu 2 ta' l-Artikolu 6 tal-Konvenzjoni fis-sens illi ma tipprekludix xi liġi partikulari milli timponi fuq xi persuna akkużata taħt dik il-liġi l-piż tal-prova ta' fatti partikolari.

2. Il-Gvern ta' Malta, b'referenza għall-Artikolu 64 tal-Konvenzjoni, u xewqan li jevita kull incertezza dwar l-applikazzjoni ta' l-Artikolu 10 tal-Konvenzjoni jiddikjara li l-Kostituzzjoni ta' Malta tippermetti li dawn ir-restrizzjonijiet jiġu imposti fuq uffiċjali pubbliċi dwar il-libertà ta' espressjoni tagħhom hekk kif ikunu raġonevolment ġustifikabbli f'soċjetà demokratika. Ir-regolamenti dwar il-kondotta ta' uffiċjali pubbliċi f'Malta tipprekludihom milli jieħdu parti attiva f'diskussjonijiet politiċi jew f'xi attività politika oħra matul hinijiet tax-xogħol jew f'postijiet uffiċjali.

3. Il-Gvern ta' Malta, b'riferenza għal-Artikolu 64 tal-Konvenzjoni, jiddikjara li l-prinċipju ta' difiża legittima ammess taħt is-subparagrafu (a) tal-paragrafu (2) ta' l-Artikolu 2 ta' l-Konvenzjoni għandu wkoll ikun japplika f'Malta għad-difiża tal-proprjetà sal-limitu meħtieġ bid-dispożizzjonijiet tal-paragrafi(a) u (b) ta' l-Artikolu 238 ta' l-Kodiċi Kriminali ta' Malta, li t-test tiegħu, flimkien ma' t-test ta' l-artikolu 237 preċedenti, huwa dan li ġej:

“237. Ma hemmx reat meta l-omicidju jew l-offiża fuq il-persuna huma ordnati jew permessi mil-ligi jew mill-awtorità legittima, jew mehtieġa mill-bżonn attwali tad-difiża legittima ta' wiehed innifsu jew ta' haddiehor.”

“238. Jidhlu taht il-kazijiet ta' bżonn attwali tad-difiża legittima, dawn li ġejjin:

(a) jekk l-omicidju jew l-offiži fuq il-persuna jsiru fil-waqt li wiehed, bil-lejl, ikun qiegħed jirreżisti biex ma jhallix l-iskalata jew il-ksur ta' reċinti, ta' hitan, jew ta' bibien li minnhom tidhol għal dar jew appartament abitat, jew ta' post li jagħmel magħhom, illi jkun jinfed, direttament jew indirettament, ma' dik id-dar jew ma' dak l-appartament;

(b) jekk l-omicidju jew l-offiži fuq il-persuna jsiru fil-waqt tad-difiża kontra persuna li tkun tagħmel serq bi vjolenza jew sakkegġ bi vjolenza, jew li tittanta tagħmel dak is-serq jew sakkegġ;

(ċ) jekk l-omicidju jew l-offiži fuq il-persuna jkunu mehtieġa mill-bżonn attwali tad-difiża tal-kastità ta' persuna nnifisha, jew ta' persuna ohra.”

4. Il-Gvern ta' Malta, b'riferenza għall-Artikolu 64 tal-Konvenzjoni, jiddikjara li l-prinċipju affermat fit-tieni sentenza ta' l-Artikolu 2 tal-Protokoll qiegħed jiġi aċċettat minn Malta sakemm biss dan ikun kompatibbli mal-ġoti ta' struzzjoni u taħriġ effiċjenti, u li tiġi evitata kull spiża pubblika irragonevoli, b'riferenza għall-fatt li l-popolazzjoni ta' Malta hija fl-ikbar numru tagħha waħda Kattolika Rumana.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 21 tat-12 ta' Awissu, 1987.

JIMMY FARRUGIA
Speaker

P. MUSCAT TERRIBILE
Aġent Skrivani tal-Kamra tad-Deputati.

I assent.

(L.S.)

PAUL XUEREB
Acting President

19th August, 1987

ACT No. XIV of 1987

AN ACT to make provision for the substantive Articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to become and be enforceable as, part of the Law 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:—

- Short title. 1. This Act may be cited as the European Convention Act, 1987.
- Interpretation. 2. In this Act unless the context otherwise requires:
- “Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on the 4th day of November, 1950 and the First, Second, Third and Fifth Protocols thereto signed in Paris on the 20th March, 1952, and in Strasbourg on the 6th May, 1963, 6th May, 1963 and 20th January, 1966 respectively.
- “Human Rights and Fundamental Freedoms” means those rights and freedoms as set out in Articles 2 to 18 (inclusive) of the Convention and Articles 1 to 3 (inclusive) of the First Protocol to the Convention, which Articles are reproduced in the First Schedule to this Act;
- “ordinary law” means any instrument having the force of Law and any unwritten rule of law, other than the Constitution of Malta;
- “person” includes any physical person, non-governmental organisation or group of individuals;
- Enforcement of 3. (1) The Human Rights and Fundamental Freedoms shall be, and Convention. be enforceable as, part of the Law of Malta.
- (2) Where any ordinary law is inconsistent with the Human Rights

and Fundamental Freedoms, the said Human Rights and Fundamental Freedoms shall prevail, and such ordinary law, shall, to the extent of the inconsistency, be void.

(3) The Human Rights and Fundamental Freedoms shall be enforceable subject to the Declaration and Reservations made by the Government of Malta on the signing of the Convention on the 12th day of December, 1966, which Declaration and Reservations are reproduced in the Second Schedule to this Act.

(4) The Constitutional Court shall in addition to the jurisdiction conferred on it by section 95 of the Constitution, have jurisdiction to hear and determine all appeals under this Act and exercise all such powers as are conferred on it by this Act.

4. (1) Any person who alleges that any of the Human Rights and Fundamental Freedoms, has been, is being or is likely to be contravened in relation to him, or such other person as the Civil Court, First Hall, in Malta may appoint at the instance of any person who so alleges, may, without prejudice to any other action with respect to the same matter that is lawfully available, apply to the Civil Court, First Hall, for redress.

Procedure for enforcement of Human Rights and Fundamental Freedoms.

(2) The Civil Court, First Hall, shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1) of this section, and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement, of the Human Rights and Fundamental Freedoms to the enjoyment of which the person concerned is entitled:

Provided that the Court may, if it considers it desirable so to do, decline to exercise its powers under this subsection in any case where it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other ordinary law.

(3) If any proceedings in any court other than the Civil Court, First Hall, or the Constitutional Court any question arises as to the contravention of any of the Human Rights and Fundamental Freedoms, that court shall refer the question to the Civil Court, First Hall, unless in its opinion the raising of the question is merely frivolous or vexatious; and that court shall give its decision on any question referred to it under this subsection and, subject to the provisions of subsection (4) of this section, the court in which the question arose shall dispose of the question in accordance with that decision.

(4) Any party to proceedings brought in the Civil Court, First Hall, in pursuance of this section shall have a right of appeal to the Constitutional Court.

(5) No appeal shall lie from any determination under this section that any application or the raising of any question is merely frivolous or vexatious.

(6) The Rules of Court made in accordance with subsection (7) of section 46 of the Constitution as in force from time to time shall apply *mutatis mutandis* to the practice and procedure of the courts for the purpose of this section as if the proceedings made under this section were proceedings made under section 46 of the Constitution.

(7) Where it is alleged that any of the Human Rights and Fundamental Freedoms and any of the provisions of sections 33 to 45 (inclusive) of the Constitution has been, is being or is likely to be contravened, the demand for redress or the reference to the Civil Court, First Hall, in

accordance with section 46 of the Constitution and this section may be made in the same application or reference.

(8) Where an application for redress or any reference to the Civil Court, First Hall, made after the 30th April, 1987 is made exclusively either under section 46 of the Constitution or under this section and is still pending before the Civil Court, First Hall, or the Constitutional Court, the Court may examine whether or not the facts complained of are in violation of the corresponding Human Rights and Fundamental Freedoms, in the first case, or of the corresponding Fundamental Rights and Freedoms of the Individual enforceable under the Constitution, in the second case; and if the Court so finds it may order accordingly the redress it may deem appropriate under any of the aforesaid laws.

Right of
Individual
Petition

5. No person shall be hindered in the exercise of his right to petition the Secretary-General of the Council of Europe in accordance with the provisions of Article 25 of the Convention and of all the Articles of the said Convention related thereto.

Enforcement of
the decisions of
the European
Court of
Human Rights.

6. (1) Any judgement of the European Court of Human Rights to which a declaration made by the Government of Malta in accordance with Article 46 of the Convention applies, may be enforced by the Constitutional Court in Malta, in the same manner as judgements delivered by that court and enforceable by it, upon an application filed in the Constitutional Court and served on the Attorney General containing a demand that the enforcement of such judgement be ordered.

(2) Before adjudging upon any such demand the Constitutional Court shall examine if the judgement of the European Court of Human Rights sought to be enforced, is one to which a declaration as is referred to in subsection (1) of this section applies.

(3) The Constitutional Court shall order the enforcement of a judgement referred to in this section if it finds that such judgement is one to which a declaration referred to in subsection (2) of this section applies.

Transitory
provision.

7. No contravention of the Human Rights and Fundamental Freedoms committed before the 30th April, 1987, shall give rise to an action under section 4 of this Act.

FIRST SCHEDULE

(Section 2)

Articles 2 to 18 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

ARTICLE 2

(1) Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

(2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

ARTICLE 3

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

ARTICLE 4

- (1) No one shall be held in slavery or servitude.
- (2) No one shall be required to perform forced or compulsory labour.
- (3) For the purpose of this Article the term "forced or compulsory labour" shall not include:
 - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditioned release from such detention;
 - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
 - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
 - (d) any work or service which forms part of normal civic obligations.

ARTICLE 5

- (1) Everyone has the right to liberty and security of person.

No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authorities on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

(2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

(3) Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial

within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

(4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

(5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

ARTICLE 6

(1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

(2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

(3) Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

ARTICLE 7

(1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

(2) This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

ARTICLE 8

(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 9

(1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

(2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 10

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 11

(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

ARTICLE 12

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

ARTICLE 13

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority not-

withstanding that the violation has been committed by persons acting in an official capacity.

ARTICLE 14

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

ARTICLE 15

(1) In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

(2) No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.

(3) Any High Contracting Party availing itself of this right of derogation shall keep the Secretary-General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary-General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

ARTICLE 16

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

ARTICLE 17

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

ARTICLE 18

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Articles 1 to 3 of the First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

ARTICLE 1

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of

property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

ARTICLE 2

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

ARTICLE 3

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

SECOND SCHEDULE

(Section 3)

DECLARATION AND RESERVATIONS MADE BY THE GOVERNMENT OF MALTA WHEN SIGNING THE CONVENTION AND PROTOCOL (12 DECEMBER 1966)

1. Declaration of interpretation

The Government of Malta declares that it interprets paragraph 2 of Article 6 of the Convention in the sense that it does not preclude any particular law from imposing upon any person charged under such law the burden of proving particular facts.

2. The Government of Malta, having regard to Article 64 of the Convention, and desiring to avoid any uncertainty as regards the application of Article 10 of the Convention declares that the Constitution of Malta allows such restrictions to be imposed upon public officers in regard to their freedom of expression as are reasonably justifiable in a democratic society. The code of conduct of public officers in Malta precludes them from taking an active part in political discussions or other political activity during working hours or on official premises.

3. The Government of Malta, having regard to Article 64 of the Convention declares that the principle of lawful defence admitted under subparagraph (a) of paragraph (2) of Article 2 of the Convention shall apply in Malta also to the defence of property to the extent required by the provisions of paragraphs (a) and (b) of section 238 of the Criminal Code of Malta, the text whereof, along with the text of the preceding section 237, is as follows:

"237. No offence is committed when a homicide or a bodily harm is ordered or permitted by law or by a lawful authority, or is imposed by actual necessity either in lawful self-defence or in the lawful defence of another person.

"238. Cases of actual necessity of lawful defence shall include the following:

(a) where the homicide or bodily harm is committed in the act of repelling, during the night-time the sealing or breaking of

enclosures, walls, or the entrance doors of any house or inhabited apartment, or of the appartenance thereof having a direct or an indirect communication with such house or apartment;

(b) where the homicide or bodily harm is committed in the act of defence against any person committing theft or plunder, with violence, or attempting to commit such theft or plunder;

(c) where the homicide or bodily harm is imposed by the actual necessity of the defence of one's own chastity or of the chastity of another person."

4. The Government of Malta, having regard to Article 64 of the Convention, declares that the principle affirmed in the second sentence of Article 2 of the Protocol is accepted by Malta only in so far as it is compatible with the provision of efficient instuction and training, and the avoidance of unreasonable public expenditure, having regard to the fact that the population of Malta is overwhelmingly Roman Catholic.

Passed by the House of Representatives at Sitting No. 21 of the 12th August, 1987.

JIMMY FARRUGIA
Speaker

P. MUSCAT TERRIBILE
Acting Clerk to the House of Representatives.