

**151. L-Onor. Darren Carabott jipponu:**

L-Ewwel Qari ta' Abbozz ta' Ligi msejjaħ “Att tal-2023 li jemenda l-Kostituzzjoni ta' Malta”.

05.06.2023

## ABBOZZ TA' LIĠI

### Msejjah

*ATT biex jemenda l-Kostituzzjoni ta' Malta billi jintroduci u jirrikonoxxi d-dritt fundamentali tal-bniedem li jghix f'ambjent nadif, san u sostenibbli, li jagħti l-protezzjoni u jippromwovi d-drittijiet u l-interessi tal-popolazzjoni Maltija u l-generazzjonijiet futuri.*

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

1. It-titolu ta' dan l-Att hu l-Att tal-2023 sabiex jemenda l-Kostituzzjoni ta' Malta, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kostituzzjoni ta' Malta, hawn iżjed 'il quddiem imsejha "il-Kostituzzjoni". Titolu fil-qasir
2. Il-paragrafu (a) tal-artikolu 32 tal-Kostituzzjoni, minflok il-kliem "il-ħajja, libertà, sigurtà tal-persuna, it-tgawdija ta' proprjetà u l-protezzjoni tal-liġi" għandhom jiħdlu l-kliem "il-ħajja, libertà, sigurtà tal-persuna, it-tgawdija ta' proprjetà, l-ambjent, u l-protezzjoni tal-liġi". Emenda tal-artikolu 32 tal-Kostituzzjoni
3. Immedjatament wara l-artikolu 45 tal-Kostituzzjoni, għandu jiżdied dan l-artikolu ġdid b'dan li ġej: Artikolu ġdid 45A tal-Kostituzzjoni

Protezzjoni tad-dritt li tghix f'ambjent san.

**45A.** (1) Il-persuni kollha f'Malta għandhom id-dritt illi jghixu f'ambjent nadif, san u sostenibbli.

(2) F'dan l-artikolu, il-kelma "ambjent" tfisser l-arja, l-ilma, u l-art, u l-ekosistema u dak kollu li jifforma parti minnha, u r-riżorsi naturali u fiżiċi kollha li jaffetwaw il-ħajja umana.

(3) F'dan l-artikolu, il-kelma "ambjent" tfisser ukoll dawk il-kundizzjonijiet soċjali, koerenza estetika u attributi kulturali li jaffetwaw dak kollu imsemmi fid-dispożizzjoni tas-subartikolu

(2) ta' dan l-artikolu.

(4) Id-dritt ta' azzjoni għal dikjarazzjoni li d-dispożizzjonijiet ta' dan l-artikolu jkunu ġew, ikunu qed jiġu jew ikunu x'aktarx ser jiġu miksur, u kif ukoll għal infurzar ta' kwalunkwe rimedju li jsegwi, tkun tappartjeni lill-persuni kollha mingħajr

distinzjoni u persuna li ġġib azzjoni bħal dik ma tkunx meħtieġa turi xi interess persunali b'appoġġ għall-azzjoni tagħha.

4. L-artikolu 46 tal-Kostituzzjoni jiġi emendat kif gejj:

- (i) kull fejn jirrikorru il-kliem “artikoli 33 sa 45 (magħdudin)” għandhom jiġu sostitwiti bil-kliem “artikoli 33 sa 45A (magħdudin)”;
- (ii) minnufih wara s-subartikolu (7) tiegħu jiġi introdott is-subartikolu ġdid li gejj:

Emenda tal-  
artikolu 46 tal-  
Kostituzzjoni

"(8) Bla hsara għad-disposizzjonijiet ta' dan l-artikolu, f'każ fejn persuna tallega li d-disposizzjonijiet tal-artikolu 45A ta' din il-Kostituzzjoni jkunu ġew, ikunu qed jiġu jew ikunu x'aktarx ser jiġu miksura, il-Prim'Awla tal-Qorti Ċivili jew il-Qorti Kostituzzjonali tista', jekk jidhirlha li l-allegat ksur hu ta' natura tant serja, tordna li żżomm milli titwettaq kwalunkwe haġa li tista' tkun ta' preġudizzju.

Iżda f'każ illi l-Prim'Awla tal-Qorti Ċivili jew il-Qorti Kostituzzjonali jidhirlha illi jkunu ġew, ikunu qed jiġu jew ikunu x'aktarx ser jiġu miksura d-disposizzjonijiet tal-artikolu 45A ta' din il-Kostituzzjoni, dik il-Qorti tista' tordna l-provvedimenti li jidhirlha xierqa sakemm jitwettaq irrimedju ordnat b'sentenza jew sakemm il-Qorti jidhirlha li hu meħtieġ sabiex tiżgura l-eżekuzzjoni ta' dak irrimedju.

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### **Għanijiet u Raġunijiet**

L-Għan ta' dan l-Abbozz ta' Liġi huwa sabiex jemenda l-proviżjonijiet tal-Kostituzzjoni ta' Malta billi jintroduċi u jirrikonoxxi d-dritt li tgħix f'ambjent nadif, san u sostenibbli bħala dritt fundamentali tal-bniedem, u dana bħala turija ċara u inekwivoka tal-impenn ta' Malta sabiex tiproteġi l-ambjent Malti u l-kwalità tal-ħajja għall-popolazzjoni preżenti tagħha u l-ġenerazzjonijiet li gejjin; billi toffri protezzjoni u tikkonserva l-arja, l-art u l-baħar, billi tagħti protezzjoni lill-biodiversità u lill-ekosistemi, billi tintroduċi kontabbiltà u responsabbiltà da parti tal-Gvern fi kwistjonijiet ambjentali, billi tappoġġja l-implimentazzjoni u l-infurzar ta' liġijiet u regolamenti ambjentali aktar rigorużi, billi tappoġġja żieda fl-involviment pubbliku fil-governanza ambjentali, billi tippromwovi edukazzjoni fir-rigward tal-ambjent, billi tappoġġja prattika tajba biex ikollna ambjent li kapaċi jsostni s-soċjetà umana u t-tgawdija sħiħa tad-drittijiet fundamentali tal-bniedem, u billi ttejjeb il-kooperazzjoni ma' Stati oħra għall-isforz globali favur il-protezzjoni tal-ambjent.

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**A BILL**  
**entitled**

*AN ACT to amend the Constitution of Malta in introducing and recognising the fundamental human right to live in a clean, healthy and sustainable environment, which shall afford the protection and promote the rights and interests of the Maltese population and future generations.*

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 title of this Act is the Act of 2023 to amend the Constitution of Malta, and this Act shall be read and construed as one with the Constitution of Malta, hereinafter referred to as “the Constitution”.

Short Title

2. In paragraph (a) of article 32 of the Constitution, for the words “life, liberty, security of the person, the enjoyment of property and the protection of the law” there shall be substituted the words “life, liberty, security of the person, the enjoyment of property, environment and the protection of the law”.

Amendment of article 32 of the Constitution

3. Immediately after article 45 of the Constitution, there shall be added the following new article:

New article 45A of the Constitution

Protection of the right to a healthy environment.

**45A.** (1) All persons in Malta shall have the right to live in a clean, healthy and sustainable environment.

(2) In this article, the expression “environment” means air, water, and land, and the ecosystem and all its constituent parts, and all natural and physical resources which affect human life.

(3) In this article, the expression “environment” also means the social conditions, aesthetic coherence and cultural attributes which affect the matters stated in the provision of sub-article (2) of this article.

(4) A right of action for a declaration that the provisions of this article has been, is being or is likely to be contravened, and the enforcement of any consequential redress, shall appertain to all persons without distinction and a person bringing such an action shall not be required to show any personal interest in support of his action.

4. Article 46 of the Constitution shall be amended as follows:

Amendment of  
article 46 of the  
Constitution

- (i) Wherever the words “articles 33 to 45 (inclusive)” occur, there shall be substituted the words “articles 33 to 45A (inclusive)”;
- (ii) Immediately after sub-article (7) of this article, there shall be added the following new sub-article:

(8) Subject to the provisions of this article, any person who alleges that the provisions of article 45A of this Constitution have been, are being or are likely to be contravened, the Civil Court, First Hall, or the Constitutional Court may, if it considers that the alleged breach is of a serious nature, order to restrain from doing anything whatsoever which might be prejudicial.

Provided that if the Civil Court, First Hall, or the Constitutional Court determines that the provisions of article 45A of this Constitution have been, are being or are likely to be contravened, that Court may order any directions as it may deem proper until the performance of the redress ordered by a judgement or until such time as the Court may deem necessary to ensure such performance of the redress.

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### **Objects and Reasons**

The Objects of this Bill are to amend the provisions of the Constitution of Malta in introducing and recognising the right to live in a clean, healthy and sustainable environment as a fundamental human right, in a clear and unequivocal declaration of Malta’s commitment in protecting the Maltese environment and quality of life for its current population and the generations to come; by affording protection and conservation to air, land and sea, by awarding protection for biodiversity and ecosystems, by introducing governmental accountability and responsibility in environmental matters, by supporting more rigours implementation and enforcement of environmental laws and regulations, by sustaining increased public involvement in environmental governance, by advocating for education with respect to the environment, by supporting good practices to have an environment that is

capable of supporting human society and the full enjoyment of fundamental human rights, and by enhancing cooperation with other States for the global efforts to protect the environment.

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