

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,391, 10 ta' Marzu, 2015

Taqsim A

MALTA

ATT Nru. VI tal-2015

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

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

ACT No. VI of 2015

AN ACT enacted by the Parliament of Malta.

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

Nagħti l-kunsens tiegħi.

(L.S.)

DOLORES CRISTINA

Agent President

10 ta' Marzu, 2015

ATT Nru. VI tal-2015

ATT biex 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, harget b'ligi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2015 li jemenda l-Att dwar ir-Rifuġjati, u dan l-Att għandu jinqara u jinftehem haġa waħda mal-Att dwar ir-Rifuġjati, hawn iktar 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

Kap. 420.

2. Minflok il-kelma "asil" kull fejn tidher fl-Att prinċipali, bl-esklużjoni tal-kliem "l-ewwel pajjiż ta' asil" u "proċeduri tal-asil", għandhom jidhlu l-kliem "protezzjoni internazzjonali".

Emenda ġenerali.

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

(a) minflok it-tifsira "applikant għal asil" għandu jidhol dan li ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

" "applikant" tfisser ċittadin ta' pajjiż terz jew persuna apolidi li tkun għamlet applikazzjoni għal protezzjoni internazzjonali li ma tkunx għadha ttiehdet deċizjoni finali dwarha mill-Kummissarju jew mill-Bord tal-Appelli dwar ir-Rifuġjati;"

(b) minflok it-tifsira "applikazzjoni għal asil" għandu jidhol dan li ġej:

" "applikazzjoni għal protezzjoni internazzjonali"

tfisser talba magħmula minn ċittadin ta' pajjiż terz jew persuna apolida li tista' tinftiehem bhala talba għal protezzjoni internazzjonali sakemm iċ-ċittadin ta' pajjiż terz ma jitlobx esplicitament għal xorta oħra ta' protezzjoni barra mill-iskop ta' dan l-Att li tista' ssir applikazzjoni għaliha separatament;"

(ċ) minnufih wara t-tifsira "applikazzjoni għal protezzjoni internazzjonali" għandha tiżdied it-tifsira ġdida li ġejja:

" "applikant fil-bżonn ta' garanziji proċedurali speċjali" tfisser applikant li l-kapaċità li jibbenifika mid-drittijiet u jirrispetta l-obbligi previsti f'dan l-Att jew xi legiżlazzjoni sussidjarja magħmula tahtu, hija limitata minhabba f'ċirkostanzi individwali;"

(d) minflok it-tifsira "applikazzjoni manifestament infondata" għandu jidhol dan li ġej:

" "applikazzjoni manifestament infondata" tfisser applikazzjoni:

(a) li dwarha r-rikorrenti, fis-sottomissjoni tal-applikazzjoni tiegħu u l-prezentazzjoni tal-fatti, qajjem biss kwistjonijiet li mhumiex rilevanti għall-eżami dwar jekk dak l-applikant jikkwalifika bhala benefiċjarju ta' protezzjoni internazzjonali; jew

(b) li dwarha l-applikant jagħti dettalji jew iġib provi li b'mod ċar ma jkunux suffiċjenti biex jissostanzjaw il-pretensjoni tiegħu u l-istorja li jagħti tkun waħda inkonsistenti, kontradittorja jew fundamentalment improbabbli; jew

(ċ) li dwarha l-applikant isejjes l-applikazzjoni tiegħu fuq identità falza jew dokumenti falsifikati jew foloz li huwa jirritjeni bhala ġenwini meta jiġi mistoqsi dwarhom; jew

(d) li dwarha l-applikant inganna lill-awtoritajiet billi zamm għalih informazzjoni jew dokumenti rilevanti fir-rigward tal-identità u/jew tan-nazzjonalità tiegħu li setgħu kellhom impatt negattiv fuq id-deċiżjoni; jew

(e) li dwarha l-applikant għamel dikjarazzjonijiet foloz ta' natura sostanzjali; jew

(f) li dwarha l-applikant, mingħajr kawża raġonevoli u b'malafidi, ikun qered, hassar jew xort'ohra għamel uzu minn xi passaport, dokument jew biljett ieħor rilevanti għall-pretensjoni tiegħu, kemm biex jistabbilixxi identità falza għall-fini tal-applikazzjoni tiegħu kif ukoll biex jirrendi l-konsiderazzjoni tal-applikazzjoni tiegħu mill-awtoritajiet iktar diffiċli; jew

(g) li dwarha l-applikant, għalkemm qabel kellu opportunità biżżejjed li jressaq applikazzjoni għal protezzjoni internazzjonali, ikun għamel l-applikazzjoni bil-għan li jwaqqaf ordni li jkun ser isir dwar it-tnehhija tiegħu minn Malta, u ma jkunx ipprovdha spjegazzjoni valida għaliex ma jkunx applika aktar qabel; jew

(h) meta l-applikant għal protezzjoni internazzjonali jkun ġej minn pajjiż tal-origini sigur; jew

(i) li dwarha l-applikant jirrifjuta milli jikkonforma mal-obbligu tal-marki tas-swaba tiegħu meħuda skont il-leġiżlazzjoni rilevanti; jew

(j) li dwarha l-applikant jista', għal raġunijiet serji, jitqies bħala periklu għas-sigurtà nazzjonali jew ordni pubbliku, jew l-applikant ġie espuls bil-forza għal raġunijiet serji ta' sigurtà pubblika jew ordni pubbliku skont il-liġi nazzjonali;"

(e) minnufih wara t-tifsira "applikazzjoni manifestament infondata" għandha tizdied it-tifsira ġdida li ġejja:

" "applikazzjoni sussegwenti" tfisser applikazzjoni ohra għall-protezzjoni internazzjonali magħmula wara li tkun ittiehdet deċiżjoni finali fuq applikazzjoni preċedenti;"

(f) minnufih wara t-tifsira "applikazzjoni sussegwenti" għandha tizdied it-tifsira ġdida li ġejja:

" "benefiċjarju ta' protezzjoni internazzjonali" tfisser persuna li giet mogħtija status ta' rifuġjat jew ta' protezzjoni sussidjarja skont l-artikolu 8 u l-artikolu 17;"

(g) minflok it-tifsira "deċiżjoni finali" għandu jidhol dan li ġej:

" "deċiżjoni finali" tfisser deċiżjoni dwar jekk iċ-

ċittadin ta' pajjiż terz jew persuna apolidi tingħatax status ta' rifuġjat jew status ta' protezzjoni sussidjarja u din ma tkun soġġetta għal ebda appell, irrispettivament minn jekk tali deċiżjoni għandha l-effett li tippermetti l-applikanti konċernati jibqgħu f'Malta sal-eżitu tagħha;"

(h) fit-tifsira "Direttivi" minflok il-kliem "id-Direttiva tal-Kunsill 2004/83/KE tad-29 ta' April 2004 dwar *standards* minimi għall-kwalifika u l-istatus ta' ċittadin ta' pajjiżi terzi jew persuni apolidi bħala rifuġjati jew bħala persuni li fin-nuqqas ta' dan ikunu jeħtieġu protezzjoni internazzjonali u l-kontenut tal-protezzjoni mogħtija" għandhom jidhlu l-kliem "id-Direttiva tal-Kunsill 2011/95/EU dwar *standards* għall-kwalifika ta' ċittadini ta' pajjiżi terzi jew persuni apolidi bħala benefiċjarji ta' protezzjoni internazzjonali għal status ta' rifuġjati jew ta' persuni eliġibbli għal protezzjoni sussidjarja u għall-kontenut tal-protezzjoni mogħtija";

(i) minflok it-tifsira "irtirar ta' status ta' rifuġjat" għandu jidhol dan li ġej:

" "irtirar ta' protezzjoni internazzjonali" tfisser deċiżjoni li tittiehed minn awtorità kompetenti li tirrevoka, ittemm jew tiċhad milli ggedded l-istatus ta' rifuġjat jew ta' protezzjoni sussidjarja ta' persuna;"

(j) fit-tifsira "jibqa'", minnufih wara l-kliem "eżaminata l-applikazzjoni għal asil;" għandhom jidhru l-kliem "id-dritt li jibqa' m'għandux jikkostitwixxi jedd għall-permess ta' residenza;"

(k) fit-tifsira "Konvenzjoni", minflok il-kelma "Konvenzjoni" għandhom jidhru l-kliem " "Konvenzjoni" jew "Konvenzjoni ta' Ġinevra" ";

(l) minflok it-tifsira "membri tal-familja dipendenti" għandu jidhol dan li ġej:

" "membri tal-familja" tfisser, sakemm il-familja kienet diġà teżisti fil-pajjiż ta' oriġini, il-membri tal-familja tal-benefiċjarju tal-protezzjoni internazzjonali li ġejjin li huma preżenti f'Malta fir-rigward tal-applikazzjoni għal protezzjoni internazzjonali:

(a) il-konjuġi tal-benefiċjarju tal-protezzjoni internazzjonali, jew is-sieħeb jew sieħba mhux miżzewweġ li qiegħed f'relazżjoni stabbli miegħu jew

magħha, fejn rikonnoxxut mil-liġi;

(b) it-tfal minuri tal-konjuġi jew tas-sieheb jew sieħba jew tal-benefiċjarju ta' protezzjoni internazzjonali msemmija fil-paragrafu (a) ta' hawn fuq, bil-kundizzjoni li huma mhumiex mizzewġin u mingħajr ma jiġi meqjus jekk twildux fi jew barra miż-żwieġ jew adottati kif definit taħt il-liġi nazzjonali;

(ċ) il-missier, l-omm jew adult ieħor responsabbli għall-benefiċjarju tal-protezzjoni internazzjonali sew jekk bil-liġi jew mill-prattika tal-Istat Membru kkonċernat, meta dak il-benefiċjarju hu minuri jew mhux mizzewweġ;"

(m) minnufih wara t-tifsira "Il-Ministru" għandha tiżdied it-tifsira ġdida li ġejja:

" "minuri" tfisser ċittadin ta' pajjiż terz jew persuna apolidi taħt l-età ta' tmintax-il sena;"

(n) minnufih wara l-paragrafu (e) fit-tifsira "pajjiż terz sigur" għandu jiżdied il-paragrafu ġdid li ġej:

"(f) m'hemmx riskju ta' dannu serju kif imfisser f'dan l-artikolu;"

(o) minnufih wara t-tifsira "pajjiż terz sigur" għandha tiżdied it-tifsira ġdida li ġejja:

" "persuna eliġibbli għal protezzjoni sussidjarja" tfisser ċittadin ta' pajjiż terz li ma jikkwalifikax bħala rifuġjat imma li fir-rigward tiegħu ġew ippruvati raġunijiet sostanzjali li jippruvaw li l-persuna kkonċernata, jekk tirritorna lejn il-pajjiż ta' orijini, tiffaċċja riskju veru li jsufri periklu serju, u ma jistax jew, minhabba f'dan ir-riskju, ma jixtieqx jew ma jistax jagħmel użu mill-protezzjoni ta' dak il-pajjiż u ma ġiex eskluż milli jkun eliġibbli għal din il-protezzjoni taħt l-artikolu 17(1);"

(p) minnufih wara t-tifsira "preskritt" għandha tiżdied it-tifsira ġdida li ġejja:

" "protezzjoni internazzjonali" tfisser stat ta' rifuġjat jew protezzjoni sussidjarja;"

(q) minnufih wara t-tifsira "protezzjoni internazzjonali"

għandha tiżdied it-tifsira ġdida li ġejja:

" "rappreżentant" tfisser persuna jew organizzazzjoni mahtura mill-korpi kompetenti sabiex tgħin u tirrappreżenta minuri mhux akkumpanjat fi proċeduri tal-asil bil-għan li tiżgura l-aħjar interessi tat-tfal u teżerċita kapaċità legali għall-minuri fejn ikun meħtieġ. Meta organizzazzjoni tinħatar bħala rappreżentant, hi għandha taħtar persuna responsabbli għat-twettiq tad-dmirijiet ta' rappreżentant fir-rigward tal-minuri mhux akkumpanjat;"

(r) fil-paragrafu (b) tat-tieni proviso għat-tifsira "rifugjat", minflok il-kliem "bl-istess mod bħal ma hemm fil-paragrafu (a) hawn qabel;" għandhom jidhlu l-kliem "bl-istess mod bħal ma hemm fil-paragrafu (a) hawn qabel.", u minnufih wara għandu jjiżdied dan li ġej:

"Għall-finijiet tal-paragrafu (a), atti ta' persekuzzjoni tfisser:

(a) atti ta' vjolenza fiżika jew mentali inkluż atti ta' vjolenza sesswali;

(b) miżuri legali, amministrattivi, tal-pulizija, u/jew ġudizzjarji li huma fihom infushom diskriminatorji jew li huma implimentati f'manjiera diskriminatorja;

(ċ) prosekuzzjoni jew kastig li huwa sproporzjonat jew diskriminatorju;

(d) każda ta' rimedju ġudizzjarju li jirrizulta f'mod sproporzjonat jew diskriminatorju;

(e) prosekuzzjoni jew kastig għar-rifjut li wiehed iwettaq servizz militari f'kunflitt, fejn it-twettiq ta' dan is-servizz militari jkun jinkludi delitti jew atti li jaqgħu fl-ambitu tar-raġunijiet għall-esklużjoni kif stipulat fl-artikolu 12(2);

(f) atti ta' natura speċifika għal generu sesswali u atti ta' natura speċifika għat-tfal:

Iżda l-istatus ta' rifugjat fuq il-bażi ta' biża ta' persekuzzjoni għandu jingħata biss

jekk ikun hemm konnessjoni bejn ir-raġunijiet għal persekuzzjoni msemmija fir-regolament 18 tar-Regolamenti dwar l-*Standards* ta' Proċedura fl-Eżami tal-Applikazzjonijiet għal Protezzjoni Internazzjonali u l-atti ta' persekuzzjoni msemmija f'din it-tifsira;"

4. Minnufih wara s-subartikolu (1) tal-artikolu 7 tal-Att prinċipali għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 7 tal-Att prinċipali.

"(1A) Għall-fini ta' dan l-artikolu, jista' jsir appell fuq fatti u punti ta' liġi kontra:

(a) rakkomandazzjoni meħuda dwar applikazzjoni għal protezzjoni internazzjonali inkluża decizjoni li:

(i) tikkunsidra applikazzjoni bhala bla bazi fir-rigward ta' status ta' rifuġjat u / jew status ta' protezzjoni sussidjarja;

(ii) tikkunsidra applikazzjoni bhala inammissibbli skont l-artikolu 24;

(iii) ma jsirx eżami skont l-artikolu 24(1)(c);

(b) ir-rifjut li jerga' jsir l-eżami ta' applikazzjoni wara li din tkun ġiet imwaqqfa skont ir-regolament 13 tar-Regolamenti dwar l-*Standards* ta' Proċedura fl-Eżami tal-Applikazzjonijiet għal Protezzjoni Internazzjonali;

(c) l-irtirar ta' protezzjoni internazzjonali."

5. L-artikolu 7A tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 7A tal-Att prinċipali.

"7A. (1) Persuna li tkun applikat għal protezzjoni internazzjonali tista' tagħmel applikazzjoni sussegwenti lill-Kummissarju għar-Rifuġjati wara li tkun ingħatat decizjoni finali:

Izda dik l-applikazzjoni għandha tiġi biss ikkunsidrata wara li jiġu preżentati elementi jew riżultanzi godda, li jkollhom x'jaqsmu mal-eżami dwar jekk il-persuna li tkun qiegħda tagħmel l-applikazzjoni sussegwenti tkunx tikkwalifika bhala benefiċjarju ta' protezzjoni internazzjonali, u li l-applikant ma setax ikun jaf bihom jew li huwa ma setax

jippreżenta.

(2) Il-persuna li tkun qiegħda tippreżenta applikazzjoni sussegwenti għandha:

(a) tindika l-fatti u ġġib provi li jkunu jiġġustifikaw din il-proċedura; u

(b) tippreżenta dik l-informazzjoni ġdida fi żmien hmistax-il gurnata mill-jum meta l-persuna li tkun qiegħda tagħmel l-applikazzjoni sussegwenti tkun kisbet dik l-informazzjoni.

(3) L-eżami jista' jsir abbażi biss ta' sottomissjonijiet bil-miktub u l-persuna li tkun qiegħda tagħmel l-applikazzjoni sussegwenti għandha tiġi mgharrfa bl-eżitu tal-eżami u d-dritt li jkollha li tagħmel appell.

(4) Għall-finijiet ta' teħid ta' deċizjoni dwar l-ammissibbiltà ta' applikazzjoni skont l-artikolu 24, applikazzjoni sussegwenti għandha tkun sugġetta għal eżami preliminari dwar jekk kienx hemm jew jekk ġewx preżentati elementi jew konkluzjonijiet ġodda mill-preżentata tal-ewwel applikazzjoni.

(5) Jekk l-eżami preliminari msemmi fis-subartikolu (4) jikkonkludi li nqalgħu jew ġew ippreżentati elementi jew konkluzjonijiet ġodda mill-applikant, li jzidu sostanzjalment il-probabbiltà li l-applikant jikkwalifika bħala benefiċjarju ta' protezzjoni internazzjonali, għandu jitwettaq eżami ulterjuri tal-applikazzjoni:

Izda din l-applikazzjoni għandha tiġi ulterjorment eżaminata biss jekk l-applikant ikkonċernat kien, mingħajr htija tiegħu, inkapaċi li jikkonkludi li setgħu inqalgħu elementi jew sejbiet ġodda.

(6) Meta applikazzjoni sussegwenti ma tiġix ulterjorment eżaminata skont dan l-artikolu, din għandha titqies bħala inammissibbli skont l-artikolu 24(1)(f).

(7) Il-proċedura msemmija f'dan l-artikolu tista' tkun applikabbli wkoll fil-każ ta':

(a) persuna dipendenti li tippreżenta applikazzjoni wara li hija tkun, skont l-artikolu 24(1)(g), tat il-kunsens tagħha sabiex il-każ tagħha jkun parti minn applikazzjoni mressqa f'isimha;

(b) minuri mhux mizzewweg li jipprezenta applikazzjoni, wara li l-applikazzjoni tkun giet ipprezentata f'ismu.

(8) Għall-finjiet ta' dan l-artikolu, il-Kummissarju għar-Rifuġjati għandu jiżgura li:

(a) l-eżami preliminari msemmi f'dan l-artikolu jikkonsisti fl-eżami jekk kienx hemm xi fatti relatati mal-persuna dipendenti jew mas-sitwazzjoni tal-minuri mhux mizzewweg li jiġġustifikaw applikazzjoni separata;

(b) l-applikant li l-applikazzjoni tiegħu sussegwenti hija soġġetta għal eżami preliminari, igawdi mill-garanziji msemmija fir-regolament 4 tar-Regolamenti dwar l-*Standards* ta' Proċedura fl-Eżami tal-Aplikazzjonijiet għal Protezzjoni Internazzjonali;

(c) l-applikant huwa infurmat b'mod adegwat bl-eżitu tal-eżami preliminari u, jekk l-applikazzjoni m'għandhiex tkun ulterjorment eżaminata, bir-raġunijiet għaliex u l-possibbiltà ta' rikors għal appell jew għar-reviżjoni tad-deċiżjoni.

(9) L-eżami preliminari jista' jsir biss fuq il-bazi ta' sottomissjonijiet bil-miktub u l-persuna li tagħmel l-applikazzjoni sussegwenti għandha tkun mgħarrfa bir-riżultat tal-eżami preliminari."

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

Emenda tal-artikolu 8 tal-Att prinċipali.

(a) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (4); u

(b) minnufih wara s-subartikolu (2) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(3) Għall-finijiet ta' dan l-artikolu, persekuzzjoni preċedenti jew periklu serju jew theddida diretta ta' din il-persekuzzjoni jew dannu għandhom jiġu meqjusin bhala indikazzjoni serja tal-biża' fondata ta' persekuzzjoni tal-applikant jew riskju reali li jsufri dannu serju, sakemm ma jkunx hemm raġunijiet tajba li jqisu li din il-persekuzzjoni jew dannu ta' qabel mhux ser jiġu ripetuti."

7. Fil-proviso għas-subartikolu (1) tal-artikolu 9 tal-Att prinċipali, minflok il-kliem "ma tkunx tista' tibqa' titqies bhala waħda li tkun imsejsa sew.", għandhom jidhlu l-kliem "ma tkunx

Emenda tal-artikolu 9 tal-Att prinċipali.

tista' tibqa' titqies bhala wahda li tkun imsejsa sew:", u minnufih wara ghandu jizdied il-proviso gdid li gzej:

"Izda wkoll il-paragrafi (d) u (e) m'ghandhomx japplikaw ghal rifugjat li jista' jinvoka ragunijiet b'sahhithom li johorgu minn persekuzzjoni precedenti talli rrifjuta li jaghmel uzu mill-protezzjoni tal-pajjiz tan-nazzjonalita' jew, bhala persuna minghajr stat, tal-pajjiz ta' residenza abitwali ta' qabel."

Sostituzzjoni tal-intestatura tat- Titolu II fit- Taqsima IV tal- Att principali.

8. L-intestatura tat- Titolu II fit- Taqsima IV tal- Att principali ghandha tigi sostitwita b'dan li gzej:

"Titolu II - Atturi ta' persekuzzjoni jew dannu serju, atturi ta' protezzjoni, protezzjoni interna, *non-refoulement* u sistemazzjoni mill-gdid".

Emenda tal- artikolu 17 tal- Att principali.

9. L-artikolu 17 tal- Att principali ghandu jigi emendat kif gzej:

(a) is-subartikolu (2) tieghu ghandu jigi enumerat mill-gdid bhala s-subartikolu (3); u

(b) minnufih wara s-subartikolu (1) tieghu, ghandu jizdied is-subartikolu gdid li gzej:

"(2) Ghall-fini ta' dan l-artikolu, riskju veru li jsolfri minn dannu serju jista' jkun ibbazat fuq avvenimenti li jkunu sehew wara li l-applikant ikun telaq mill-pajjiz tieghu tal-origini jew attivitajiet imwettqa mill-applikant minn meta jkun telaq mill-pajjiz tal-origini, hlief meta jkun ibbazat fuq cirkostanzi li l-applikant ikun holoq bid-decizjoni tieghu stess minn meta jkun telaq mill-pajjiz tal-origini."

Sostituzzjoni tal-artikolu 18 tal- Att principali.

10. L-artikolu 18 tal- Att principali ghandu jigi sostitwit b'dan li gzej:

"18. Dawn li gzejjin jistghu jigu kkunsidrati bhala atturi ta' persekuzzjoni jew ta' dannu serju:

(a) l-Istat;

(b) gruppi jew organizzazzjonijiet li jkunu qeghdin jikkontrollaw l-Istat jew parti sostanzjali mit-territorju tal-Istat;

(c) atturi mhux Statali, jekk ikun jista' jintwera li l-atturi msemmija fil-paragrafi (a) u (b), inkluzi

organizzazzjonijiet internazzjonali, ma jkunux kapaċi jew ma jkunux iridu jipprovdu protezzjoni kontra l-atti ta' persekuzzjoni jew ta' dannu serju."

11. L-artikolu 19 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 19 tal-Att prinċipali.

(a) fil-paragrafu (b) tas-subartikolu (1) tiegħu, minflokk il-kliem "jew parti sostanzjali mit-territorju tal-Istat.", għandhom jidhlu l-kliem "jew parti sostanzjali mit-territorju tal-Istat.", u minnufih wara għandu jizdied il-proviso ġdid li ġej:

"Izda għall-fini ta' dan l-artikolu, l-atturi ta' protezzjoni msemmija fil-paragrafi (a) u (b) huma lesti li joffru u jistgħu joffru protezzjoni skont is-subartikolu (2).";

(b) minnufih wara s-subartikolu (1) tiegħu, għandu jizdied is-subartikolu ġdid li ġej:

"(1A) Għall-finijiet ta' dan l-artikolu, meta jiġi evalwat jekk organizzazzjoni internazzjonali tikkontrollax Stat jew parti sostanzjali tat-territorju tiegħu u ttiprovdi protezzjoni kif deskritta fis-subartikolu (2), għandhom jiġu kkunsidrati kwalunkwe gwida pprovduta fi kwalunkwe dispożizzjoni oħra rilevanti tal-liġi nazzjonali, kwalunkwe Att tal-Unjoni Ewropea jew dokumentazzjoni rilevanti mahruġa mill-Kummissarju Għoli.";

(ċ) is-subartikolu (2) tiegħu għandu jiġi mħassar; u

(d) minnufih wara s-subartikolu (1A) tiegħu, għandu jizdied is-subartikolu ġdid li ġej:

"Protezzjoni kontra persekuzzjoni jew dannu serju għandha tkun effettiva u ta' natura mhux temporanja. Din il-protezzjoni tiġi pprovduta meta l-entitajiet imsemmija fis-subartikolu (1) jieħdu passi raġonevoli biex jipprevjenu l-atti msemmija fl-artikolu 17(1) bit-tħaddim ta' sistema legali effettiva għall-kxif, il-prosekuzzjoni u l-għoti ta' pieni għal atti li jikkostitwixxu persekuzzjoni jew dannu gravi, u l-applikant ikollu aċċess għal dik il-protezzjoni.".

12. L-artikolu 20 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 20 tal-Att prinċipali.

"20. (1) Bħala parti mill-valutazzjoni tal-applikazzjoni għal protezzjoni internazzjonali, il-Kummissarju għar-Rifuġjati

jista' jiddeċiedi li l-applikant ma jkollux bżonn protezzjoni internazzjonali jekk huwa, fil-qadi ta' dmirijietu, iqis li f'xi parti mill-pajjiż tal-orġini, l-applikant:

(a) m'għandu l-ebda biża' fondata ta' persekuzzjoni jew mhuwiex fir-riskju reali li jsufri dannu serju; jew

(b) għandu aċċess għal protezzjoni kontra persekuzzjoni jew dannu serju kif imsemmi fl-artikolu 19,

u l-applikant jista' b'mod sigur u legalment jivvjaġġa lejn u jikseb dhul f'dik il-parti tal-pajjiż tal-orġini u huwa mistenni b'mod raġonevoli li jistabbilixxi ruħu hemmhekk.

(2) Fl-eżami dwar jekk parti mill-pajjiż tal-orġini hijiex skont is-subartikolu (1), il-Kummissarju għar-Rifugjati għandu fil-hin tat-tehid tad-deċiżjoni dwar l-applikazzjoni, iqis iċ-ċirkostanzi ġenerali li jipprevalu f'dik il-parti tal-pajjiż u ċ-ċirkostanzi personali tal-applikant.

(3) Għall-finijiet ta' dan l-artikolu, il-Kummissarju għar-Rifugjati għandu jiżgura li informazzjoni preċiża u aġġornata tinkiseb minn sorsi rilevanti, bhall-Kummissarju Għoli tan-Nazzjonijiet Uniti għar-Rifugjati u l-Uffiċċju Ewropew ta' Appoġġ għal Asil."

Emenda tal-artikolu 21 tal-Att prinċipali.

13. Fil-proviso għall-artikolu 21 tal-Att prinċipali, minflok il-kliem "ma tkunx għadha aktar tiffaċċja riskju kbir ta' danni gravi.", għandhom jidhlu l-kliem "ma tkunx għadha aktar tiffaċċja riskju kbir ta' danni gravi.", u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda wkoll id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw għal benefiċjarju ta' protezzjoni sussidjarja li jista' jinvoka raġunijiet b'saħħithom li johorġu minn persekuzzjoni preċedenti talli rrifjuta li jagħmel użu mill-protezzjoni tal-pajjiż tan-nazzjonalità jew, bhala persuna mingħajr stat, tal-pajjiż ta' residenza abitwali ta' qabel."

Żjieda ta' artikolu ġdid mal-Att prinċipali.

14. Minnufih wara l-artikolu 23 tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Proċeduri aċċellerati.

23A. Minuri mhux akkumpanjati jistgħu jiġu eżaminati taħt proċeduri aċċellerati skont dan l-artikolu meta:

(a) l-applikant ikun ġej minn pajjiż li jissodisfa l-kriterji ta' pajjiż tal-origini sigur fis-sens ta' dan l-Att;

(b) l-applikant ikun introduċa applikazzjoni sussegwenti għall-protezzjoni internazzjonali li ma tkunx inammissibbli skont l-artikolu 24;

(ċ) l-applikant jista' għal raġunijiet serji jitqies bħala periklu għas-sigurtà nazzjonali jew ordni pubbliku ta' Malta jew l-applikant ikun ġie espuls bil-forza għal raġunijiet serji ta' sigurtà pubblika jew ordni pubbliku skont il-liġi nazzjonali."

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

Emenda tal-artikolu 24 tal-Att prinċipali.

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

"(1) Applikazzjoni li ssir minn persuna f'Malta li tkun qiegħda tfittex protezzjoni internazzjonali u li tkun taqa' taht xi waħda mill-kundizzjonijiet li ġejjin, tkun inammissibbli jekk:

(a) Stat Membru ieħor ikun diġà ta lil dik il-persuna protezzjoni internazzjonali skont ir-Regolament tal-Kunsill (KE) 604/2013 tas-26 ta' Ġunju 2013 li jistabbilixxi l-kriterji u l-mekkaniżmi li jiddeterminaw liema jkun l-Istat Membru responsabbli biex isir l-eżami ta' applikazzjoni għal protezzjoni internazzjonali li tkun ġiet ipprezentata f'xi wieħed mill-Istati Membri minn ċittadin ta' pajjiż terz u minn persuna apolidi;

(b) pajjiż li ma jkunx Stat Membru jitqies bħala l-ewwel pajjiż tal-asil għall-applikant;

(ċ) pajjiż li ma jkunx Stat Membru jitqies bħala pajjiż terz sigur għall-applikant;

(d) l-applikant għamel applikazzjoni sussegwenti, fejn l-ebda elementi jew konkluzjonijiet godda relatati mal-eżami dwar jekk l-applikant jikkwalifikax bħala benefiċjarju ta' protezzjoni internazzjonali, ma nqalghu jew ma ġew preżentati

mill-applikant;

(e) persuna dipendenti tal-applikant tipprezenta applikazzjoni wara li tkun tat il-kunsens tagħha biex il-każ tagħha jkun jifforma parti minn applikazzjoni li tkun saret f'isimha, u ma jkun hemm ebda fatt li jkollu x'jaqsam mas-sitwazzjoni tal-persuna dipendenti li jkun jiġġustifika applikazzjoni separata;

(f) l-applikant ikun gie rikonoxxut f'pajjiż li ma jkunx Stat Membru bħala rifugjat u jkun xorta għadu jista' jagħmel uzu minn dik il-protezzjoni jew ikun xort'oħra jgawdi protezzjoni biżżejjed f'dak il-pajjiż, inkluż li jkun kiseb benefiċċju mill-prinċipju ta' *non-refoulement*, u dik il-persuna tkun tista' terġa' tiddaħhal f'dak il-pajjiż; jew

(g) l-applikant ikollu n-nazzjonalità jew ikun ċittadin ta' xi pajjiż tal-orġini sigur elenkat fl-Iskeda jew, jekk huwa ma jkollux in-nazzjonalità jew ma jkunx ċittadin ta' dak il-pajjiż, ikollu d-dritt ta' residenza fih.";

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

"(2) Id-dispożizzjonijiet tal-artikolu 23(2), (3), (4) u (5) għandhom japplikaw *mutatis mutandis* għal applikazzjonijiet inammissibbli.";

(c) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (4); u

(d) minnufih wara s-subartikolu (2) tiegħu, għandu jizdied is-subartikolu ġdid li ġej:

"(3) Il-Kummissarju għandu jippermetti lill-applikanti jipprezentaw il-fehmiet tagħhom, dwar l-applikazzjoni, tar-raġunijiet imsemmija f'dan l-artikolu, qabel ma tittiehed deċiżjoni dwar l-ammissibbiltà tal-applikazzjoni. Għandha ssir ukoll intervista personali dwar l-ammissibbiltà tal-applikazzjoni.".

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 245 tat-3 ta' Marzu, 2015.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skriivan tal-Kamra tad-Deputati

I assent.

(L.S.)

DOLORES CRISTINA

Acting President

10th March, 2015

ACT No. VI of 2015

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:-

Short title.

1. The short title of this Act is the Refugees (Amendment) Act, 2015, and this Act shall be read and construed as one with the Refugees Act, hereinafter referred to as "the principal Act".

Cap. 420.

General amendment.

2. In this Act, for the word "asylum" wherever it occurs in the principal Act, with the exclusion of the words "first country of asylum" and "asylum procedures", there shall be substituted the words "international protection".

Amendment of article 2 of the principal Act.

3. Article 2 of the principal Act shall be amended as follows:

(a) for the definition "applicant for asylum" there shall be substituted the following:

" "applicant" means a third country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken by the Commissioner or the Refugees Appeals Board;"

(b) for the definition "application for asylum" there shall be substituted the following:

" "application for international protection" means

a request made by a third country national or a stateless person which can be understood as a request for international protection unless the third country national explicitly requests another kind of protection outside the scope of this Act that can be applied for separately;"

(c) immediately after the definition "application for international protection" there shall be added the following new definition:

" "applicant in need of special procedural guarantees" means an applicant whose ability to benefit from the rights and comply with the obligations provided for in this Act or any subsidiary legislation made thereunder, is limited due to individual circumstances;"

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

" "beneficiary of international protection" means a person who has been granted refugee status or subsidiary protection status in accordance with article 8 and article 17;"

(e) in the definition "Convention", for the word "Convention" there shall be substituted the words " "Convention" or "Geneva Convention" ";

(f) the definition "dependent members of the family" shall be deleted;

(g) in the definition "Directives", for the words "Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted", there shall be substituted the words "Council Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted";

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

" "family members" means, in so far as the family already existed in the country of origin, the following members of the family of the beneficiary of international protection who are present in Malta in relation to the application for international protection:

(a) the spouse of the beneficiary of international protection, or his or her unmarried partner in a stable relationship where recognised by law;

(b) the minor children of the spouse or partner or of the beneficiary of international protection referred to in paragraph (a) above, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law;

(c) the father, mother or another adult responsible for the beneficiary of international protection whether by law or by the practice of the Member State concerned, when that beneficiary is a minor and unmarried;"

(i) for the definition "final decision" there shall be substituted the following:

" "final decision" means a decision on whether the third country national or stateless person be granted refugee status or subsidiary protection status which is not subject to appeal, irrespective of whether such decision has the effect of allowing the applicants concerned to remain in Malta pending its outcome;"

(j) immediately after the definition "the High Commissioner" there shall be added the following new definition:

" "international protection" means refugee status or subsidiary protection;"

(k) for the definition "manifestly unfounded application" there shall be substituted the following:

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

(a) the applicant, in submitting his or her application and presenting the facts, has only raised

issues that are not relevant to the examination as to whether such applicant qualifies as a beneficiary of international protection; or

(b) the applicant has given clearly insufficient details or evidence to substantiate his claim and his story is inconsistent, contradictory or fundamentally improbable; or

(c) the applicant has based his application on a false identity or on forged or counterfeit documents which he maintained as genuine when questioned about them; or

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

(e) the applicant made false representations of a substantial nature; or

(f) the applicant has, without reasonable cause and in bad faith, destroyed, damaged or disposed of any passport, other document or ticket relevant to his claim, either in order to establish a false identity for the purpose of his application or to make the consideration of his application by the authorities more difficult; or

(g) the applicant, having had ample earlier opportunity to submit an application for international protection, submitted the application in order to forestall an impending removal order from Malta, and did not provide a valid explanation for not having applied earlier; or

(h) the applicant is from a safe country; or

(i) the applicant refuses to comply with an obligation to have his or her fingerprints taken in accordance with the relevant legislation; or

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

under national law;"

(l) immediately after the definition "the Minister" there shall be added the following new definition:

" "minor" means a third country national or stateless person below the age of eighteen years;"

(m) immediately after the definition "minor" there shall be added the following new definition:

" "person eligible for subsidiary protection" means a third country national who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his country of origin, would face a real risk of suffering serious harm, and is unable or, owing to such risk, unwilling to avail himself of the protection of that country, and has not been excluded from being eligible for such protection under article 17(1);"

(n) in paragraph (b) of the second proviso to the definition "refugee", for the words "in a similar manner as in paragraph (a);" there shall be substituted the words "in a similar manner as in paragraph (a).", and immediately thereafter there shall be added the following:

"For the purpose of paragraph (a), "acts of persecution" means:

(a) acts of physical or mental violence, including acts of sexual violence;

(b) legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;

(c) prosecution or punishment which is disproportionate or discriminatory;

(d) denial of judicial redress resulting in a disproportionate or discriminatory manner;

(e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling within the scope of the grounds for

exclusion as set out in article 12(2);

(f) acts of a gender-specific or child-specific nature:

Provided that refugee status on the grounds of fear of persecution shall only be granted if there is a connection between the reasons for persecution mentioned in regulation 18 of the Procedural Standards in Examining Applications for International Protection Regulations and the acts of persecution referred to in this definition;"

(o) in the definition "remain", immediately after the words "or is being examined;" there shall be added the words "the right to remain shall not constitute an entitlement to a residence permit;"

(p) immediately after the definition "remain" there shall be added the following new definition:

" "representative" means a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in asylum procedures with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out the duties of a representative in respect of the unaccompanied minor;"

(q) immediately after paragraph (e) in the definition "safe third country", there shall be added the following new paragraph:

"(f) there is no risk of serious harm as defined in this article;"

(r) immediately after the definition "serious harm" there shall be added the following new definition:

" "subsequent application" means a further application for international protection made after a final decision has been taken on a previous application;"

(s) for the definition "withdrawal of refugee status" there shall be substituted the following:

" "withdrawal of international protection" means the decision by the Commissioner to revoke, end or refuse to renew the refugee or subsidiary protection status of a person."

Amendment of article 7 of the principal Act.

4. Immediately after sub-article (1) of article 7 of the principal Act there shall be added the following new sub-article:

"(1A) For the purpose of this article, an appeal on both facts and points of law may be permitted against:

(a) a recommendation taken on an application for international protection, including a decision;

(i) considering an application to be unfounded in relation to refugee status and/or subsidiary protection status;

(ii) considering an application to be inadmissible pursuant to article 24;

(iii) not to conduct an examination pursuant to article 24(1)(c);

(b) a refusal to reopen the examination of an application after the discontinuation in accordance with regulation 13 of the Procedural Standards in Examining Applications for International Protection Regulations;

(c) a withdrawal of international protection."

Substitution of article 7A of the principal Act.

5. Article 7A of the principal Act shall be substituted by the following:

"7A. (1) A person who has applied for international protection may make a subsequent application after a final decision to the Commissioner for Refugees:

Provided that such application shall only be considered on the presentation of new elements or findings, relating to the examination of whether the person making the subsequent application qualifies as a beneficiary of international protection, and of which the applicant could not have been aware or which he could not have submitted.

(2) The person submitting a subsequent application shall:

(a) indicate facts and provide evidence which justify this procedure; and

(b) submit such new information within fifteen days from the day on which the person making the subsequent application obtained such information.

(3) The examination may be conducted on the sole basis of written submissions and the person making the subsequent application is to be informed of the outcome of the examination and of his right for an appeal.

(4) For the purpose of taking a decision on the admissibility of an application pursuant to article 24, a subsequent application shall be subject to a preliminary examination as to whether new elements or findings have arisen or have been presented since the lodging of the first application.

(5) If the preliminary examination referred to in sub-article (4) concludes that new elements or findings have arisen or have been presented by the applicant which significantly add to the likelihood of the applicant qualifying as a beneficiary of international protection, a further examination of the application shall be carried out:

Provided that an application shall only be further examined if the applicant concerned was, through no fault of his own, incapable of concluding that new elements or findings have arisen.

(6) When a subsequent application is not further examined pursuant to this article, it shall be considered inadmissible, in accordance with article 24(1)(f).

(7) The procedure referred to in this article may also be applicable in the case of:

(a) a dependent who lodges an application after he has, in accordance with article 24(1)(g), consented to have his case be part of an application lodged on his behalf;

(b) an unmarried minor who lodges an application after an application has been lodged on his behalf.

(8) For the purpose of this article, the Refugee Commissioner shall ensure that:

(a) the preliminary examination referred to in this article will consist of examining whether there are facts relating to the dependent's or the unmarried minor's situation which justify a separate application;

(b) that the applicant whose subsequent application is subject to a preliminary examination enjoys the guarantees provided for in regulation 4 of the Procedural Standards in Examining Applications for International Protection Regulations;

(c) that the applicant is informed in an appropriate manner of the outcome of the preliminary examination and, if the application is not to be further examined, of the reasons why and the possibilities for seeking an appeal or review of the decision.

(9) The preliminary examination may be conducted on the sole basis of written submissions and the person making the subsequent application is to be informed of the outcome of the preliminary examination."

Amendment of article 8 of the principal Act.

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

(a) sub-article (3) thereof shall be renumbered as sub-article (4); and

(b) immediately after sub-article (2) thereof, there shall be added the following new sub-article:

"(3) For the purpose of this article, a previous persecution or serious harm or a direct threat of such persecution or harm shall be considered as a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or previous harm will not be repeated."

Amendment of article 9 of the principal Act.

7. In the proviso to sub-article (1) of article 9 of the principal Act, for the words "can no longer be regarded as well-founded.", there shall be substituted the words "can no longer be regarded as well-founded:", and immediately thereafter there shall be added the following new proviso:

"Provided further that paragraphs (d) and (e) shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality or, being a

stateless person, of the country of former habitual residence."

8. The heading of Title II in Part IV of the principal Act shall be substituted by the following.

Substitution of heading of Title II in Part IV of the principal Act.

"Title II - Actors of persecution or serious harm, actors of protection, internal protection, *non-refoulement* and resettlement".

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

Amendment of article 17 of the principal Act.

(a) sub-article (2) thereof shall be renumbered as sub-article (3); and

(b) immediately after sub-article (1) thereof, there shall be added the following new sub-article:

"(2) For the purpose of this article, a real risk of suffering serious harm may be based on events which have taken place after the applicant has left his country of origin or activities engaged in by applicant since leaving the country of origin, except when based on circumstances which the applicant has created by his own decision since leaving the country of origin."

10. Article 18 of the principal Act shall be substituted by the following:

Substitution of article 18 of the principal Act.

"18. The following may be considered as actors of persecution or serious harm:

(a) the State;

(b) parties or organizations controlling the State or a substantial part of the territory of the State;

(c) non-State actors, if it can be demonstrated that the actors mentioned in paragraphs (a) and (b), including international organizations, are unable or unwilling to provide protection against such acts of persecution or serious harm."

11. Article 19 of the principal Act shall be amended as follows:

Amendment of article 19 of the principal Act.

(a) in paragraph (b) of sub-article (1) thereof, for the words "or a substantial part of the territory of the State.", there shall be substituted the words "or a substantial part of the territory of the State:", and immediately thereafter there shall be

added the following new proviso:

"Provided that, for the purpose of this article, actors of protection referred to in paragraphs (a) and (b) are willing and able to offer protection in accordance with sub-article (2).";

(b) immediately after sub-article (1) thereof there shall be added the following new sub-article:

"(1A) For the purpose of this article, when assessing whether an international organisation controls a State or a substantial part of its territory and provides protection as described in sub-article (2), account shall be taken of any guidance provided for in any other relevant provision of national law, any European Union Act or relevant documentation issued by the High Commissioner.";

(c) sub-article (2) thereof shall be deleted; and

(d) immediately after sub-article (1A) thereof, there shall be added the following new sub-article:

"(2) Protection against persecution or serious harm must be effective and of a non-temporary nature. Such protection is provided when the entities mentioned in sub-article (1) take reasonable steps to prevent the acts mentioned in article 17(1) by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.".

Substitution of
article 20 of the
principal Act.

12. Article 20 of the principal Act shall be substituted by the following:

"20. (1) As part of the assessment of the application for international protection, the Refugee Commissioner may determine that the applicant is not in need of international protection if, in the exercise of his functions, he deems that in a part of the country of origin, the applicant:

(a) has no well-founded fear of being persecuted or is not at real risk of suffering serious harm; or

(b) has access to protection against persecution or serious harm as mentioned in article 19,

and the applicant can safely and legally travel to and gain admittance to that part of the country of origin and can reasonably be expected to settle there.

(2) In examining whether a part of the country of origin is in accordance with sub-article (1), the Refugee Commissioner shall at the time of taking the decision on the application, have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant.

(3) For the purposes of this article, the Refugee Commissioner shall ensure that precise and up-to-date information is obtained from relevant sources, such as the United Nations High Commissioner for Refugees and the European Asylum Support Office."

13. In the proviso to article 21 of the principal Act for the words "no longer faces a real risk of serious harm.", there shall be substituted the words "no longer faces a real risk of serious harm:", and immediately thereafter there shall be added the following new proviso:

Amendment of article 21 of the principal Act.

"Provided further that the provisions of this article shall not apply to a beneficiary of subsidiary protection who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence."

14. Immediately after article 23 of the principal Act, there shall be added the following new article:

Addition of new article to the principal Act.

"Accelerated procedures.

23A. An unaccompanied minor may be examined under accelerated procedures, in accordance with this article, when:

(a) the applicant comes from a country which satisfies the criteria to be considered a safe country of origin, within the meaning of this Act;

(b) the applicant has introduced a subsequent application for international protection which is not inadmissible in accordance with article 24;

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

Amendment of article 24 of the principal Act.

15. Article 24 of the principal Act shall be amended as follows:

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

"(1) The application of any person in Malta seeking international protection and who falls under any one of the following conditions, shall be inadmissible if:

(a) another Member State has already granted him international protection in terms of Council Regulation No. 604/2013 of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person;

(b) a country which is not a Member State is considered as a first country of asylum for the applicant;

(c) a country which is not a Member State is considered as a safe third country for the applicant;

(d) the applicant made a subsequent application, where no new elements or findings relating to the examination of whether the applicant qualifies as a beneficiary of international protection have arisen or have been presented by the applicant;

(e) a dependent of the applicant lodges an application after consenting to have his case part of an application made on his behalf, and there are no facts relating to the dependent person's situation which justify a separate application;

(f) the applicant has been recognized in a country which is not a Member State as a refugee and

can still avail himself of that protection or otherwise enjoys sufficient protection in that country including benefiting from the principle of *non-refoulement*, and such person can be re-admitted to that country; or

(g) the applicant is a national or citizen of any safe country of origin listed in the Schedule or, if he is not a national or citizen thereof, he has a right of residence therein.";

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

"(2) The provisions of article 23(2), (3), (4) and (5) shall apply *mutatis mutandis* to inadmissible applications.";

(c) sub-article (3) thereof shall be renumbered as sub-article (4); and

(d) immediately after sub-article (2) thereof there shall be added the following new sub-article:

"(3) The Commissioner shall allow applicants to present their views, with regard to the application, of the grounds referred to in this article before a decision on the admissibility of an application has been taken. A personal interview on the admissibility of the application shall also be conducted.".

Passed by the House of Representatives at Sitting No. 245 of the 3rd March, 2015.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

