

VERŻJONI ELETTRONIKA

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,978, 20 ta' Diċembru, 2022
Taqsim A

MALTA

ATT Nru XIX tal-2022

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

ATT biex jemenda l-Att dwar il-Protezzjoni Internazzjonali, Kap. 420.

ACT No. XIX of 2022

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the International Protection Act, Cap. 420.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

20 ta' Dicembru, 2022

ATT Nru XIX tal-2022

ATT biex jemenda l-Att dwar il-Protezzjoni Internazzjonali, Kap. 420.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2022 li jemenda l-Att dwar il-Protezzjoni Internazzjonali u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar il-Protezzjoni Internazzjonali, hawn iżjed 'il quddiem imsejjaħ "l-Att principali".

Titolu fil-qosor
u għan.
Kap. 420.

(2) L-għan ta' dan l-Att hu li jittrasponi:

(a) id-Direttiva 2013/32/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar proceduri komuni għall-ghoti u l-irtirar tal-protezzjoni internazzjonali (riformulazzjoni);

(b) id-Direttiva 2011/95/UE tal-Parlament Ewropew u tal-Kunsill tat-13 ta' Dicembru 2011 dwar standards għall-kwalifika ta' cittadini nazzjonali ta' pajjiżi terzi jew persuni mingħajr stat bħala benefiċjarji ta' protezzjoni internazzjonali, għal stat uniformi għar-refuġjati jew għal persuni eligibbli għal protezzjoni sussidjarja, u għall-kontenut tal-protezzjoni mogħtija (riformulazzjoni); u

(ċ) id-Direttiva 2013/33/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 li tistabbilixxi l-istandards dwar l-akkoljenza ta' applikanti għall-protezzjoni internazzjonali (tfassil mill-ġdid).

Sostituzzjoni tal-artikolu 1 tal-Att prinċipali.

2. L-artikolu 1 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Titolu fil-qosor u applikabbiltà. 1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att dwar il-Protezzjoni Internazzjonali.

(2) Id-dispożizzjonijiet f'dan l-Att u l-leġiżlazzjoni sussidjarja tiegħu għandhom japplikaw għall-applikazzjonijiet kollha għal protezzjoni internazzjonali magħmula fit-territorju Malti. Dawn id-dispożizzjonijiet ma għandhomx japplikaw għal talbiet għal asil diplomatiku jew territorjali sottomessi lir-rappreżentanzi Maltin."

Emenda tal-artikolu 2 tal-Att prinċipali.

3. Il-paragrafu (f) tat-tifsira "applikazzjoni manifestament infondata" fl-artikolu 2 tal-Att prinċipali, għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

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

Sostituzzjoni tal-artikolu 3 tal-Att prinċipali.

4. L-artikolu 3 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Għan. 3. L-għan ta' dan l-Att hu:

(a) li jinkorpora l-obbligazzjonijiet li Malta assumiet taħt il-Konvenzjoni tal-1951 dwar l-Istatus ta' Rifugjati; u

(b) li jittrasponi:

(i) id-Direttiva 2013/32/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar proċeduri komuni għall-għoti u l-irtirar tal-protezzjoni internazzjonali (riformulazzjoni);

(ii) id-Direttiva 2011/95/UE tal-Parlament Ewropew u tal-Kunsill tat-13 ta' Diċembru 2011 dwar standards għall-kwalifika ta' ċittadini nazzjonali ta' pajjiżi terzi jew persuni mingħajr stat bħala benefiċjarji ta' protezzjoni internazzjonali, għal stat uniformi għar-refuġjati jew għal persuni eliġibbli għal protezzjoni sussidjarja, u għall-kontenut tal-protezzjoni mogħtija (riformulazzjoni); u

(iii) id-Direttiva 2013/33/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 li tistabbilixxi l-istandards dwar l-akkoljenza ta' applikanti għall-protezzjoni internazzjonali (tfassil mill-ġdid).".

5. Is-subartikolu (1A) tal-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 7 tal-Att prinċipali.

(a) il-kliem "appell fuq fatti u punti ta' liġi kontra" għandhom jiġu sostitwiti bil-kliem "appell għal eżami sħiħ u *ex nunc* fuq fatti u punti ta' liġi kontra"; u

(b) fil-paragrafu (ċ) tiegħu, il-kliem "protezzjoni internazzjonali" għandhom jiġu sostitwiti bil-kliem "protezzjoni internazzjonali:" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

L.S. 420.07. "Izda l-ebda dritt ta' appell ma għandu jiġi minn deċiżjoni tal-Aġenzija għall-Protezzjoni Internazzjonali li tirtira l-protezzjoni internazzjonali fuq il-bażi li din tkun skadiet skont ir-regolament 13A tar-Regolamenti dwar l-Istandards ta' Proċedura fl-Eżami tal-Applikazzjonijiet għal Protezzjoni Internazzjonali."

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

Emenda tal-artikolu 7A tal-Att prinċipali.

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

"(2) Il-persuna li tissottometti applikazzjoni sussegwenti għandha tindika fatti u tipprovdi evidenza li tiġġustifika din il-proċedura."; u

(b) minnufih wara s-subartikolu (9) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(10) Fejn persuna li fir-rigward tagħha għandha tiġi

infurzata deċiżjoni għat-trasferiment skont ir-Regolament (UE) Nru 604/2013 tagħmel rappreżentazzjonijiet ulterjuri jew applikazzjoni sussegwenti fl-Istat Membru li jittrasferixxi, dawk ir-rappreżentazzjonijiet jew applikazzjonijiet sussegwenti għandhom jiġu eżaminati mill-Istat Membru responsabbli skont id-dispożizzjonijiet ta' dan ir-Regolament, dan l-Att u l-legiżlazzjoni sussidjarja tiegħu."

Emenda tal-artikolu 10 tal-Att prinċipali.

7. Is-subartikolu (6) tal-artikolu 10 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(6) Persuna li fir-rigward tagħha l-Aġenzija għall-Protezzjoni Internazzjonali tkun irrevokat, temmet jew caħdet li ġġedded status ta' refuġjat, għandha tkun intitolata li tappella kontra din id-deċiżjoni quddiem it-Tribunal fi żmien ġimgħa (1) minn meta tkun ġiet notifikata bid-deċiżjoni, u d-dispożizzjonijiet tal-artikolu 7 għandhom japplikaw *mutatis mutandis*."

Emenda tal-artikolu 13 tal-Att prinċipali.

8. Is-subartikolu (3) tal-artikolu 13 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Kull tifel, tifla jew żagħżuġ li ma jkunx għalaq it-tmintax (18)-il sena li jaqa' fil-kamp ta' applikazzjoni ta' dan l-Att li jinsab f'ċirkostanzi li jkunu jindikaw b'mod ċar li jkun tifel, tifla jew żagħżuġ li jkollu bżonn ta' xi kura, għandu jithalla japplika għal protezzjoni internazzjonali, u għall-finijiet ta' dan l-Att, għandu jkun assistit minn rappreżentant maħtur mill-Uffiċjal Kap Eżekuttiv tal-Aġenzija għal Harsien ta' Persuni li jkunu qed ifittxu l-Asil."

Emenda tal-artikolu 17A tal-Att prinċipali.

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

(a) fis-subartikolu (2) tiegħu, minnufih wara l-ewwel proviso tiegħu għandu jiżdied il-proviso ġdid li ġej:

"Iżda wkoll l-Aġenzija għall-Protezzjoni Internazzjonali tista' tirrevoka, ittemm jew tiċħad li ġġedded dan l-istatus meta jkun stabbilit li benefiċjarju ta' protezzjoni umanitarja temporanja ma kienx oriġinarjament issodisfa l-kriterji biex ikun eliġibbli għal dan l-istatus:"; u

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

"(3) Deċiżjoni tal-Aġenzija għall-Protezzjoni

Internazzjonali li tiddikjara applikant għal protezzjoni internazzjonali bhala benefiċjarju ta' protezzjoni umanitarja temporanja għandha tkun mingħajr preġudizzju għad-dritt tal-applikant li jappella kontra d-deċiżjoni li ma jingħatax status ta' refuġjat jew protezzjoni sussidjarja."

10. L-artikolu 22 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 22 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "milli jkun eliġibbli għal protezzjoni sussidjarja" għandhom jiżdiedu l-kliem "skont l-artikolu 17(3)";

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

"(3) L-Aġenzija għall-Protezzjoni Internazzjonali tista' tirrevoka, ittemm jew tiċhad li ġġedded l-istatus ta' protezzjoni sussidjarja ta' ċittadin ta' pajjiż terz jew persuna apolida jekk huwa wara li jkun ingħata l-istatus ta' protezzjoni sussidjarja, kellu jkun eskluż jew huwa eskluż milli jkun eliġibbli għal protezzjoni sussidjarja fejn hemm raġunijiet serji li juru li:

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

(b) ikun ikkommetta reat serju; jew

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

(d) ikun jikkostitwixxi periklu għall-komunità jew għas-sigurtà ta' Malta:

Izda l-paragrafi (a), (b), (ċ) u (d) għandhom japplikaw ukoll għal persuni li jinstigaw jew li jipparteċipaw mod ieħor fit-twettiq tad-delitti jew atti msemmija hawnhekk."; u

(ċ) is-subartikolu (6) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(6) Persuna li fir-rigward tagħha l-Aġenzija għall-Protezzjoni Internazzjonali tkun irrevokat, temmet jew ċaħdet li ggedded status ta' refuġjat, għandha tkun intitolata li tappella kontra din id-deċiżjoni quddiem it-Tribunal fi żmien ġimgħa (1) minn meta tkun giet notifikata bid-deċiżjoni, u d-dispożizzjonijiet tal-artikolu 7 għandhom japplikaw *mutatis mutandis*."

Emenda tal-artikolu 23 tal-Att prinċipali.

11. Is-subartikolu (1) tal-artikolu 23 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Persuna li tfittex protezzjoni internazzjonali f'Malta skont l-artikolu 8 għandha tiġi eżaminata taht proċeduri aċċellerati skont dan l-artikolu meta l-applikazzjoni tagħha tidher bħala waħda manifestament infondata:

L.S. 420.07. Izda mingħajr preġudizzju għar-regolament 13 tar-Regolamenti dwar l-Istandards ta' Proċedura għall-Għoti u l-Irtirar tal-Protezzjoni Internazzjonali, applikazzjonijiet jistgħu jitqiesu biss bħala manifestament infondati jekk ikun gie stabbilit mill-Aġenzija għall-Protezzjoni Internazzjonali li l-applikant ma jikkwalifikax għal protezzjoni internazzjonali."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 70 tal-14 ta' Diċembru, 2022.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

20th December, 2022

ACT No. XIX of 2022

AN ACT to amend the International Protection Act. Cap. 420.

BE IT ENACTED by the President, by and with the advice and consent to the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. (1) The short title of this Act is the International Protection (Amendment) Act, 2022 and this Act shall be read and construed as one with the International Protection Act, hereinafter referred to as "the principal Act".

Short title and scope.

Cap. 420.

(2) The scope of this Act is to transpose:

(a) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast);

(b) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the

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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 (recast); and

(c) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

Substitution of article 1 of the principal Act.

2. Article 1 of the principal act shall be substituted by the following new article:

"Short title and applicability.

1. (1) The short title of this Act is the International Protection Act.

(2) The provisions in this Act and its subsidiary legislation shall apply to all applications for international protection made on Maltese territory. These provisions shall not apply to requests for diplomatic or territorial asylum submitted to Maltese representations."

Amendment of article 2 of the principal Act.

3. Paragraph (f) of the definition "manifestly unfounded" in article 2 of the principal Act shall be substituted by the following new paragraph:

"(f) the applicant has introduced a subsequent application for international protection that is not inadmissible in accordance with article 24(1)(d); or".

Substitution of article 3 of the principal Act.

4. Article 3 of the principal Act shall be substituted by the following new article:

"Scope.

3. The scope of this Act is:

(a) to incorporate the obligations assumed by Malta under the 1951 Convention on the Status relating to Refugees; and

(b) to transpose:

(i) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast);

(ii) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 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 (recast); and

(iii) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)."

5. Sub-article (1A) of article 7 of the principal Act shall be amended as follows:

Amendment of article 7 of the principal Act.

(a) the words "an appeal on both facts and points of law shall lie against" shall be substituted by the words "an appeal for a full and *ex nunc* examination of both facts and points of law shall lie against"; and

(b) in paragraph (c) thereof, the words "international protection" shall be substituted by the words "international protection;" and immediately thereafter there shall be added the following new proviso:

"Provided that no right of appeal shall lie from a decision of the International Protection Agency to withdraw international protection on the basis that this has lapsed in accordance with regulation 13A of the Procedural Standards for Examining Applications for International Protection Regulations."

S.L.420.07.

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

Amendment of article 7A of the principal Act.

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

"(2) The person submitting a subsequent application shall indicate facts and provide evidence which justify this procedure."; and

(b) immediately after sub-article (9) thereof there shall be added the following new sub-article:

"(10) Where a person in whose regard a transfer

decision has to be enforced pursuant to Regulation (EU) No. 604/2013 makes further representations or a subsequent application in the transferring Member State, those representations or subsequent applications shall be examined by the responsible Member State in accordance with the provisions of this Regulation, this Act and its subsidiary legislation."

Amendment of article 10 of the principal Act.

7. Sub-article (6) of article 10 of the principal Act shall be substituted by the following new sub-article:

"(6) A person, in whose regard, the International Protection Agency has revoked, ended or refused to renew a refugee status, shall be entitled to appeal against this decision before the Tribunal within one (1) week of the notification of the decision on him and the provisions of article 7 shall *mutatis mutandis* apply."

Amendment of article 13 of the principal Act.

8. Sub-article (3) of article 13 of the principal Act shall be substituted by the following new sub-article:

"(3) Any child or young person below the age of eighteen (18) years falling within the scope of this Act who is found under circumstances which clearly indicate that he is a child or young person in need of care, shall be allowed to apply for international protection, and for the purposes of this Act, shall be assisted by a representative appointed by the Chief Executive Officer of the Agency for the Welfare of Asylum Seekers."

Amendment of article 17A of the principal Act.

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

(a) in sub-article (2) thereof, immediately after the first proviso there shall be added the following new proviso:

"Provided further that the International Protection Agency may revoke, end or refuse to renew this status when it is established that a beneficiary of temporary humanitarian protection did not originally meet the criteria to be eligible for this status:"; and

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

"(3) A decision of the International Protection Agency declaring an applicant for international protection, a beneficiary of temporary humanitarian protection shall be without prejudice to the right of the applicant to appeal against the decision not to grant refugee or subsidiary

protection status."

10. Article 22 of the principal Act shall be amended as follows:

Amendment of
article 22 of the
principal Act.

(a) in sub-article (2) thereof, immediately after the words "being eligible for subsidiary protection" there shall be added the words "in accordance with article 17(3)";

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

"(3) The International Protection Agency shall revoke, end or refuse to renew the subsidiary protection status of a third-country national or stateless person, if he, after having been granted subsidiary protection status, should have been or is excluded from being eligible for subsidiary protection where there are serious reasons for considering that:

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

(b) he has committed a serious crime; or

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

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

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

(c) sub-article (6) thereof shall be substituted by the following new sub-article:

"(6) A person, in whose regard the International Protection Agency has revoked, ended or refused to renew a subsidiary protection status, shall be entitled to appeal against this decision before the Tribunal within one (1) week from when the notification of the decision has been served on him, and the provisions of article 7 shall *mutatis mutandis* apply."

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Amendment of
article 23 of the
principal Act.

11. Sub-article (1) of article 23 of the principal Act shall be substituted by the following new sub-article:

"(1) A person seeking international protection in Malta in terms of article 8 shall be examined under accelerated procedures in accordance with this article when his application appears to be manifestly unfounded:

S.L. 420.07. Provided that without prejudice to regulation 13 of the Procedural Standards for Granting and Withdrawing International Protection Regulations, applications may only be considered as manifestly unfounded if it has been established by the International Protection Agency that the applicant does not qualify for international protection."

Passed by the House of Representatives at Sitting No. 70 of the 14th December, 2022.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA