

Nru 3

07. 07. 2026

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Rosianne Cutajar, M.P., Ministru għall-Ugwaljanza u d-Drittijiet Ċivili, u moqri għall-Ewwel darba fis-Seduta tat-30 ta' Ġunju 2026.

A BILL introduced by the Honourable Rosianne Cutajar, M.P., Minister for Equality and Civil Rights, and read the First time at the Sitting of the 30th June 2026.

ATT sabiex tiġi mwaqqfa l-Kummissjoni Nazzjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza u sabiex jipprovdi għal materji oħra ancillari u konsegwenzjali għall-istess.

AN ACT to establish the National Commission for Human Rights and Equality and to provide for any matter ancillary and consequential thereto.

ELEANOR SCERRI

Skrivan tal-Kamra tad-Deputati

ELEANOR SCERRI

Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT sabiex tiġi mwaqqfa l-Kummissjoni Nazzjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza u sabiex jipprovdi għal materji oħra anċillari u konsegwenzjali għall-istess.

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

ARRANĠAMENT TAL-ATT

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TAQSIMA I
PRELIMINARI

Titolu fil-qosor,
ghan u bidu fis-
sehh.

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2026 dwar il-Kummissjoni Nazzjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza.

(2) L-għan ta' dan l-Att hu li jwaqqaf Kummissjoni Nazzjonali għad-Drittijiet tal-Bniedem skont il-Prinċipji dwar l-Istatus tal-Istituzzjonijiet Nazzjonali (il-Prinċipji ta' Pariġi) u li jittrasponi d-dispożizzjonijiet rilevanti tas-segwenti:

(a) id-Direttiva tal-Kunsill 2004/113/KE tat-13 ta' Diċembru 2004 li timplimenta l-prinċipju ta' trattament indaqs bejn irġiel u nisa fl-aċċess u l-provvista ta' oġġetti u servizzi;

(b) il-Kommunikazzjoni mill-Kummissjoni Ewropea (22.12.2011 C(2011) 9497) li fiha Linji Gwida dwar l-applikazzjoni tad-Direttiva tal-Kunsill 2004/113/KE fis-settur tal-assigurazzjoni, fid-dawl tas-sentenza tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea fil-Kawża C-236/09 (Test-Achats);

(ċ) id-Direttiva 2014/54/UE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' April 2014 dwar miżuri li jiffacilitaw l-eżerċizzju tad-drittijiet konferiti fuq haddiema fil-kuntest tal-moviment liberu tal-haddiema;

(d) l-Artikolu 10 tad-Direttiva (UE) 2022/2381 tal-Parlament Ewropew u tal-Kunsill tat-23 ta' Novembru 2022 dwar it-titjib tal-bilanċ bejn il-ġeneri fost diretturi ta' kumpaniji elenkati u miżuri relatati;

(e) id-Direttiva tal-Kunsill (UE) 2024/1499 tas-7 ta' Mejju 2024 dwar standards għall-korpi tal-ugwaljanza fil-qasam tat-trattament ugwali bejn il-persuni irrispettivament mill-orijini razzjali jew etnika tagħhom, it-trattament ugwali fi kwistjonijiet ta' impjieg u xogħol bejn il-persuni irrispettivament mir-religjon jew it-twemmin, id-diżabbiltà, l-età jew l-orjentazzjoni sesswali tagħhom, it-trattament ugwali bejn in-nisa u l-irġiel fi kwistjonijiet ta' sigurtà soċjali u fl-aċċess għal prodotti u servizzi u l-provvista tagħhom, u li temenda d-Direttivi 2000/43/KE u 2004/113/KE;

(f) id-Direttiva (UE) 2024/1500 tal-Parlament Ewropew u tal-Kunsill tal-14 ta' Mejju 2024 dwar standards għall-korpi tal-ugwaljanza fil-qasam tat-trattament ugwali u l-opportunitajiet indaqs bejn in-nisa u l-irġiel fi kwistjonijiet ta' impjieg u xogħol, u li temenda d-Direttivi 2006/54/KE u 2010/41/UE.

(3) Dan l-Att għandu jidhol fis-seħħ f'dik id-data jew dati li l-Ministru responsabbli għall-ugwaljanza jista' jstabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet u, jew għanijiet differenti ta' dan l-Att, liema data ma għandhiex tkun anqas minn xahrejn (2) mid-data tal-pubblikazzjoni ta' dawn ir-regolamenti fil-Gazzetta.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx Tifsir. xort' oħra:

"akkomodazzjoni raġonevoli" tfisser aġġustamenti jew alterazzjonijiet li ma jimponux piż sproporzjonat jew mhux ġustifikat, meta jkun meħtieġ f'każ partikolari, sabiex jiżgura t-tgawdija jew l-eżercizzju b'mod ugwali daqs oħrajn tad-drittijiet tal-bniedem u l-libertajiet fundamentali kollha;

"azzjoni pożittiva" tfisser l-adozzjoni jew ż-żamma ta' miżuri speċifiċi sabiex jipprevjenu żvantagġi relatati ma' kwalunkwe mill-karatteristiċi protetti u, jew jikkumpensaw għal żvantagġi eżistenti relatati ma' kwalunkwe waħda mill-karatteristiċi protetti, sakemm dawk l-iżvantagġi jibqgħu jeżistu;

"data personali" għandu jkollha l-istess tifsira mogħtija lilha fl-Artikolu 4 tar-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data);

"disinn universali" tfisser id-disinn ta' prodotti u ambjenti li jistgħu jiġu użati u aċċessibbli mill-persuni kollha bl-aktar mod inklussiv possibbli, mingħajr il-bżonn ta' adattament jew disinn speċjalizzat;

"diskriminazzjoni" tfisser l-aġir kif stabbilit fl-artikolu 4;

"drittijiet tal-bniedem" tfisser id-drittijiet u l-libertajiet fundamentali kif stabbiliti fil-Kostituzzjoni u dawk id-drittijiet u l-libertajiet fundamentali elenkati fl-artikoli 2 sa 18 tal-Konvenzjoni Ewropea dwar id-Drittijiet tal-Bniedem u l-artikoli 1 sa 3 tal-Ewwel Protokoll, l-artikoli 1 sa 4 tar-Raba' Protokoll, l-artikoli 1 u 2 tas-Sitt Protokoll, l-artikoli 1 sa 5 tas-Seba' Protokoll tal-Konvenzjoni u l-artikolu 1 tat-Tnax-il Protokoll, liema artikoli huma riprodotti fl-Ewwel Skeda tal-Att dwar il-Konvenzjoni Ewropea, dawk id-drittijiet u l-libertajiet fundamentali kif stabbiliti fi kwalunkwe trattati oħra internazzjonali għad-drittijiet tal-bniedem, ratifikati minn Malta

Kap. 319.

inkwantu dawn huma esegwibbli minn kwalunkwe persuna skont, u bhala parti, mil-Liġi Maltija;

"dritt għal trattament ugwali u n-nondiskriminazzjoni" tfisser id-drittijiet għall-protezzjoni mid-diskriminazzjoni kif mogħtija permezz ta' kwalunkwe liġi Maltija u, jew dawk l-obbligi internazzjonali u reġjonali li jorbtu lill-Malta, u b'mod partikolari tinkludi l-protezzjoni mid-diskriminazzjoni kif mogħtija permezz ta' Taqsima I u tal-istrumenti legiſlattivi li hemm elenkati fl-Iskeda;

Kap. 9.

"fastidju" tfisser, mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 251A tal-Kodiċi Kriminali, imġiba mhux mixtieqa, li tinkludi imġiba permezz ta' sistemi elettronici jew media soċjali, relatata ma' xi waħda (1) jew aktar mill-karatteristiċi protetti, li għandha l-għan jew l-effett li tikser id-dinjità ta' persuna u, jew jinholoq ambjent intimidanti, ostili, degradanti, umiljanti jew offensiv, kif ukoll kwalunkwe trattament anqas favorevoli li jkun ibbażat fuq ir-rifjut jew is-sottomissjoni ta' persuna għal imġiba ta' dik ix-xorta;

Kap. 9.

"fastidju sesswali" tfisser, mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 251A tal-Kodiċi Kriminali, imġiba verbali, mhux verbali jew fiżika mhux mixtieqa ta' natura sesswali, li tinkludi imġiba permezz ta' sistemi elettronici jew media soċjali, bil-għan jew bl-effett ta' vjolazzjoni tad-dinjità ta' persuna u, jew fejn jinholoq ambjent intimidanti, ostili, degradanti, umiljanti jew offensiv, kif ukoll kwalunkwe trattament anqas favorevoli li jkun ibbażat fuq ir-rifjut jew is-sottomissjoni ta' persuna għal imġiba ta' dik ix-xorta;

"impjeg" tfisser kwalunkwe attività bi qligħ inkluż li l-persuna taħdem għal rasha u tinkludi l-promozzjoni u t-trasferiment għal xi kariga oħra, kif ukoll l-aċċess għal taħriġ vokazzjonali jew professjonali, għad-durata tal-impjeg jew l-estensjoni jew it-terminazzjoni tiegħu;

"karatteristiċi protetti" tfisser il-karatteristiċi stabbiliti fl-artikolu 3;

"korpi mahtura ufficjalment" tfisser kummissjonijiet, bordijiet, kumitati, kunsilli u kwalunkwe korpi oħra illi huma mahtura direttament mill-Gvern, b'eskluzjoni għal dawk il-korpi imsemmija fl-artikolu 110(6) tal-Kostituzzjoni;

"Kummissarju" tfisser il-Kummissarju għad-Drittijiet tal-Bniedem u l-Ugwaljanza kif stabbilit bl-artikolu 21;

"Kummissjoni" tfisser il-Kummissjoni Nazzjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza kif stabbilit bl-artikolu 17;

"kumpanija elenkata" għandu jkollha l-istess tifsira kif mogħti lilha fl-artikolu 2(1) tal-Att dwar is-Swieq Finanzjarji; Kap. 345.

"membru tal-familja" tfisser:

- (a) konjuġi;
- (b) sieheb jew sieħba f'unjoni ċivili;
- (ċ) id-dixxendenti diretti li ma għalqux il-wieħed u għoxrin (21) sena jew li huma dipendenti u dawk tal-konjuġi jew tas-sieheb jew sieħba;
- (d) il-qraba diretti dipendenti fil-linja axxendenti u dawk tal-konjuġi jew tas-sieheb jew sieħba;

"Ministru" tfisser il-Ministru responsabbli għall-ugwaljanza;

"persuni li jaħdmu għal rashom" tfisser il-persuni kollha li jeżerċitaw attività bi qligħ għal rashom, u l-konjuġi tal-persuni li jaħdmu għal rashom li ma jkunux impjegati jew imsieħba fin-negozju, fejn huma abitwalment jipparteċipaw fl-attivitajiet tal-persuna li taħdem għal rasha u li jwettqu l-istess kompiti jew kompiti anċillari;

"taħriġ vokazzjonali" tfisser kull tip ta' taħriġ vokazzjonali u taħriġ mill-ġdid;

"trattament ugwali" tfisser in-nuqqas ta' diskriminazzjoni fuq il-bażi ta' xi waħda (1) jew aktar mill-karatteristiċi protetti;

"vittimizzazzjoni" tfisser trattament anqas favorevoli fir-rigward ta' persuna minhabba l-fatt li l-istess persuna tressaq ilment quddiem l-awtoritajiet kompetenti jew tibda jew tipparteċipa fi proċeduri ta' rimedju bbażati fuq allegat ksur tad-dispożizzjonijiet ta' dan l-Att, jew fir-rigward ta' persuna li qed taġixxi f'isem u, jew fl-interessi ta' tali persuna.

(2) Trattament differenzjali ma għandux jitqies bħala li jikkostitwixxi xi diskriminazzjoni u, jew ksur tad-dritt għal trattament ugwali u n-nondiskriminazzjoni sakemm dak it-trattament ikun jikkostitwixxi miżuri ta' azzjoni pożittiva.

(3) Dan l-Att ma għandux jinftiehem jew jiġi applikat b'tali mod

li jippreġudika jew jaffettwa l-organizzazzjoni u l-istruttura interna, l-istatus jew l-attivitajiet ta' knejjes, ordni reliġjuża jew komunitajiet reliġjużi oħra, inklużi iżda mhux limitatament, għal xi regola dwar il-prattika reliġjuża, l-aċċess għas-saċerdozju, is-sħubija f'xi ordni jew komunità reliġjuża u kif ukoll il-wiri u l-użu ta' simboli reliġjużi.

(4) Dan l-Att huwa mingħajr preġudizzju għall-liġijiet u l-kondizzjonijiet relatati mad-dhul jew ir-residenza ta' ċittadini ta' pajjiżi terzi jew persuni bla stat f'Malta u għal kwalunkwe trattament li jirriżulta mill-istatus legali ta' dawn l-individwi konċernati.

Kap. 627.

(5) Fir-rigward tad-diżabilità dan l-Att huwa mingħajr preġudizzju għad-dispożizzjonijiet rilevanti tal-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità.

TAQSIMA II DRITT GĦALL-UGWALJANZA

Karatteristiċi
protetti.

3. F'dan l-Att il-karatteristiċi protetti jinkludu, iżda mhux limitatament għal: sess, responsabbiltajiet li gġib il-familja, l-istat ta' saħħa, orjentazzjoni sesswali, diżabilità, età, reliġjon jew twemmin, oriġini etnika jew razzjali, identità tal-ġeneru, espressjoni tal-ġeneru, karatteristiċi tas-sess jew status ieħor.

Diskriminazz-
joni.

4. (1) Id-diskriminazzjoni abbażi ta' kwalunkwe waħda (1) jew aktar ta' kwalunkwe mill-karatteristiċi protetti hi projbita.

(2) Id-diskriminazzjoni tista' sseħħ:

(a) abbażi ta' raġuni waħda, li għandha titqies li sseħħ meta persuna tiġi diskriminata kontra abbażi ta' waħda (1) biss mill-karatteristiċi protetti; jew

(b) abbażi ta' raġunijiet multipli, li għandha titqies li seħħet meta persuna tiġi diskriminata kontra abbażi ta' tnejn (2) jew aktar mill-karatteristiċi protetti.

(3) Fi kwalunkwe waħda mill-forom elenkati fis-subartikolu (2), id-diskriminazzjoni tista' tkun:

(a) diretta, li għandha titqies li seħħet meta persuna hija trattata b'mod anqas favorevoli milli persuna oħra hija, kienet, jew kellha tkun, trattata f'sitwazzjoni simili, abbażi ta' kwalunkwe waħda (1) jew aktar mill-karatteristiċi protetti;

(b) indiretta, li għandha titqies li seħħet meta jkun hemm kwalunkwe trattament ibbażat fuq dispożizzjoni, kriterju jew

prattika apparentement newtrali, li jitfgħu persuni li għandhom kwalunkwe waħda (1) jew aktar mill-karatteristiċi protetti fi żvantagġ partikolari meta pparagunati ma' persuni oħra, għajr jekk dik id-dispożizzjoni, dak il-kriterju jew dik il-prattika jkunu ġġustifikati oġġettivament b'għan leġittimu u l-mezzi sabiex jintlaħaq dak il-għan huma xierqa u neċessarji;

(ċ) fastidju u, jew fastidju sesswali:

Iżda tali mġiba tista' wkoll tikkostitwixxi reat kriminali u dik il-persuna għandha tkun punibbli skont il-Kodiċi Kriminali; Kap. 9.

(d) meta persuna tiġi ttrattata b'mod anqas favorevoli minhabba fi tqala li tista' ssehh jew li tkun teżisti jew it-twelid ta' tarbija;

(e) istruzzjonijiet sabiex tiddiskrimina, li għandhom jitqiesu li seħhu f'sitwazzjonijiet fejn persuna li għandha l-awtorità delegata li taġixxi f'isem persuna oħra tingħata struzzjonijiet minn dik il-persuna sabiex teżegwixxi kwalunkwe att li huwa meqjus bħala diskriminatorju:

Iżda tali azzjoni għandha titqies li saret ukoll minn dik il-persuna li tat l-istruzzjoni lil dik il-persuna l-oħra sabiex tagħmel dak l-att diskriminatorju;

(f) vittimizzazzjoni.

5. (1) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 26 tal-Att dwar l-Impjegi u r-Relazzjonijiet Industrijali, il-prinċipal ma għandux jiddiskrimina kontra persuna f'dawn l-istanzi: Diskriminazzjoni fl-impjieg. Kap. 452.

(a) fl-arrangamenti li jsiru sabiex jiġi stabbilit jew meta jkun qed jiġi stabbilit min għandu jiġi offrut impjieg;

(b) fil-pattijiet u l-kondizzjonijiet li l-impieg jiġi offrut abbażi tagħhom;

(ċ) fid-deċiżjonijiet dwar min għandu jkun mkeċċi mix-xogħol; jew

(d) fil-mod kif jitmexxa x-xogħol, jingħataw promozzjonijiet, titqassam il-ħidma, jiġu offruti opportunitajiet ta' taħriġ jew meta jiġu varjati l-kondizzjonijiet tax-xogħol b'mod li l-impjegat jiġi assenjat status anqas favorevoli minn oħrajn minhabba karatteristika protetta:

Iżda l-prinċipal għandu jitqies ukoll li jkun iddiskrimina kontra persuna jekk il-prinċipal ivarja l-kondizzjonijiet tax-xogħol, jew il-ftehim tal-impjegati wara li daww il-impjegati jkunu invokaw xi dritt mogħti lilhom taħt dan l-Att, jew kwalunkwe liġi oħra, jew ikunu talbu t-twetiq favur tagħhom ta' xi obbligazzjoni jew dmir taħt dan l-Att, jew kwalunkwe liġi oħra, jew jekk jonqsu mill-obbligazzjoni li għandhom li jissopprimu kwalunkwe forma ta' fastidju.

(2) Fir-rigward tal-aċċess għall-impjieg, trattament anqas favorevoli li jkun ibbażat fuq kwalunkwe waħda mill-karatteristika protetta, ma għandux jitqies bħala trattament diskriminatorju meta minhabba r-raġuni tan-natura tal-attivitajiet okkupazzjonali partikolari involuti, jew tal-kuntest li fih dawn isiru, dik il-karatteristika tikkostitwixxi rekwiżit okkupazzjonali ġenwin u determinanti sakemm l-għan ikun leġittimu u l-htieġa tkun proporzjonata.

L.S. 452.95.

(3) Ir-regolament 4 tar-Regolamenti dwar Trattament Ugwali fl-Impjieg għandu japplika *mutatis mutandis* għal dan l-artikolu.

Rapport fuq il-proċeduri ta' impjieg.

6. (1) Fuq talba ta' persuna li tallega li tkun saret diskriminazzjoni kontriha, jew fuq talba li ssirilhom mill-Kummissarju li jaġixxi minhabba kwalunkwe ilment jew xort'oħra, il-prinċipal għandu d-dmir li jipprovdi lil dik il-persuna jew lill-Kummissarju, skont il-każ u fi żmien għaxart (10) ijiem ta' xogħol minn meta ssir dik it-talba, rapport fuq l-allegazzjoni li tkun saret jew il-proċeduri użati mill-prinċipal sabiex jipprevjeni dik d-diskriminazzjoni.

(2) Il-prinċipal jkollu jedd għar-rifużjoni ta' daww il-ispejjeż raġonevoli li jsiru minnu sabiex jabbozza u jagħmel ir-rapport mingħand il-persuna li titlob dak ir-rapport:

Iżda daww il-ispejjeż jistgħu jintalbu mingħand il-persuna responsabbli għad-diskriminazzjoni jekk jirriżulta li dik id-diskriminazzjoni fil-fatt tkun seħħet.

(3) Kwalunkwe korrisondenza skont is-subartikolu (1) għandha tkun ammissibbli fi proċeduri miġjuba quddiem il-Kummissjoni jew kwalunkwe qorti, tribunal, medjatur, jew forum ieħor, u jekk ikun jidher lill-Kummissjoni jew lil kwalunkwe qorti, tribunal, medjatur, jew forum ieħor li l-prinċipal deliberatament, u bla ġustifikazzjoni raġonevoli, naqas milli jwieġeb fi żmien għaxart (10) ijiem ta' xogħol mid-data meta tkun saret it-talba jew li t-twegiba tiegħu kienet waħda evażiva jew ekwivoka, il-Kummissjoni jew kwalunkwe qorti, tribunal, medjatur, jew forum ieħor jistgħu jaslu sabiex jinferixxu minn tali fatt dak li jidrilhom bħala ġust u ekwu, inkluża l-inferenza li huwa jkun ikkommetta att illegali.

(4) Id-dispożizzjonijiet tas-subartikolu (1) ma għandhomx japplikaw jekk, fid-data meta tkun saret it-talba, jkunu diġà bdew il-proċeduri dwar it-talba quddiem il-Kummissjoni jew kwalunkwe qorti, tribunal, medjatur, jew forum ieħor.

7. (1) Il-konjuġi ta' haddiema li jaħdmu għal rashom li ma jkunux impjegati tagħhom jew shab magħhom, li jipparteċipaw fl-attivitajiet tal-haddiema li jaħdmu għal rashom u li jwettqu l-istess hidmiet jew hidmiet anċillari bħal konjuġi tagħhom, ikollhom jedd jirċievu mingħand il-konjuġi tagħhom kumpens xieraq għall-attività tagħhom li għandu jkun jirrifletti l-valur tal-kontribuzzjoni li huma jagħmlu.

Kumpens għall-konjuġi li jassistu lil haddiema għal rashom.

(2) Id-dispożizzjoni tas-subartikolu (1) ma għandhiex tapplikax meta s-sistema ta' komunjonijiet tal-akkwisti jew ta' komunjonijiet tar-residwi taht amministrazzjoni separata tkun teżisti bejn il-konjuġi.

8. (1) L-ebda entità edukattiva jew stabbiliment li jagħti taħriġ jew gwida vokazzjonali ma jista' jiddiskrimina kontra xi hadd:

Edukazzjoni u gwida vokazzjonali.

(a) fl-aċċess għal xi kors, taħriġ jew gwida vokazzjonali;

(b) fl-għoti ta' appoġġ edukattiv għal studenti jew trainees;

(c) fl-għażla u fl-implimentazzjoni tal-kurrikula; jew

(d) fil-valutazzjoni ta' kull hila jew konossenza tal-istudenti jew trainees.

(2) Kwalunkwe nuqqas mill-persuni responsabbli għal dawk l-entitajiet u stabbilimenti li jissodisfaw l-obbligu tagħhom li jipprevjenu l-fastidju kif provdut fl-artikolu 5(1) u, jew l-artikolu 9 (2) għandu għall-finijiet tas-subartikolu (1), jikkostitwixxi diskriminazzjoni.

(3) Tali entitajiet u stabbilimenti għandhom id-dmir fil-parametri tal-kompetenza tagħhom li jiżguraw li l-kurrikula u l-kotba skolastiċi ma jinkludux kontenut diskriminatorju.

9. (1) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 29 tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, l-ebda persuna ma għandha tagħti fastidju u, jew fastidju sesswali lil kwalunkwe persuna oħra.

Fastidju u fastidju sesswali. Kap. 452.

(2) Persuni responsabbli għal kwalunkwe post ta' xogħol, entitajiet edukattivi jew stabbilimenti li jipprovdu taħriġ jew gwida vokazzjonali jew għal kwalunkwe stabbiliment fejn jiġu offruti

oġġetti, servizzi jew faċilitajiet ta' akkomodazzjoni lill-pubbliku, ma għandhomx jippermettu lil persuni oħra li jkollhom jedd ikunu preżenti fi, jew li jagħmlu użu minn xi faċilità, oġġett jew servizz ipprovdut f'dak il-post, li jgarrbu fastidju jew fastidju sesswali f'tali post.

(3) Persuni responsabbli skont is-subartikolu (2) ma għandhomx ikunu responsabbli għall-fastidju jew fastidju sesswali li jseħhu f'dak il-post jekk juru li kienu hađu daww il-passi li setgħu kienu raġonevolment prattikabbli sabiex jipprevjenu tali fastidju u, jew fastidju sesswali.

Reklam
diskriminatorju.
Kap. 452.

10. (1) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 26 tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, persuni ma jistgħux jipubblikaw, jew jesponu jew iġieghlu li jiġi ppubblikat jew espost xi riklam, jew xort'oħra jirreklamaw post battal għal kwalunkwe impjeg li jkun jiddiskrimina bejn min ikun qed ifittex ix-xogħol jew jitlob mingħand min ikun qed ifittex ix-xogħol informazzjoni li tkun tirrigwarda l-ħajja privata tagħhom jew il-pjanijiet li jkollhom dwar it-tkabbir tal-familja tagħhom:

Iżda fir-rigward ta' kwalunkwe riklamar relatat ma' reklutaġġ, kwalunkwe differenza fit-trattament għandha tkun relatata ma' rekwiżit okkupazzjonali ġenwin u determinanti, u l-applikazzjoni ta' tali htieġa għandha tkun mezz proporzjonat sabiex jintlaħaq għan legittimu.

(2) Persuni ma jistgħux jipubblikaw jew jesponu jew iġieghlu li jiġi ppubblikat jew espost xi riklam li jkun jippromwovi d-diskriminazzjoni jew li jkun xort'oħra jiddiskrimina.

Kap. 9.

(3) Persuni li jiksru s-subartikolu (1) jew (2) ikunu haġta ta' reat taħt dan l-artikolu u għandhom meta jinsabu haġta jeħlu piena skont l-artikolu 338 tal-Kodiċi Kriminali.

(4) Għall-finijiet tas-subartikolu (1), ir-reklamar għandu jinkludi t-tixrid ta' informazzjoni dwar il-post vakanti bil-fomm minn persuna għall-oħra.

Aċċess u
provvista ta'
oġġetti u
servizzi.

11. (1) L-ebda persuna ma għandha tiddiskrimina kontra persuna fl-aċċess għal oġġetti u s-servizzi u l-provvista tagħhom.

(2) Bla ħsara għad-dispożizzjonijiet tal-artikolu 12, tali artikolu għandu japplika għall-persuni kollha li jipprovdu oġġetti u servizzi, li jkunu disponibbli għall-pubbliku, kemm fis-settur pubbliku kif ukoll privat, inklużi korpi pubbliċi, fejn tali oġġetti u servizzi jkunu offruti barra mill-ambitu tal-ħajja privata u dik familjari u għal kwalunkwe transazzjoni li ssir f'tali kuntest.

(3) Għall-finijiet ta' dan l-artikolu, kwalunkwe persuna jew organizzazzjoni li japplika għalihom dan l-artikolu għandhom jitqiesu wkoll li jkunu iddiskriminaw kontra persuna jekk huma jonqsu mid-dmir li għandhom li jipprevjenu kwalunkwe għamla ta' fastidju u, jew fastidju sesswali fl-organizzazzjoni tagħhom.

(4) Dan l-artikolu ma jipprekludix differenzi fit-trattament fejn il-provvista tal-oġġetti jew tas-servizzi esklussivament jew primarjament lil membri ta' kwalunkwe waħda mill-karatteristiċi protetti tkun iġġustifikata b'għan legittimu u l-mezzi sabiex jintlahaq dak l-għan ikunu xierqa u meħtieġa.

(5) Dan l-artikolu ma japplikax għal kwistjonijiet relatati mal-impjieġ, xogħol jew kwistjonijiet relatati ma' persuni li jaħdmu għar-rashom, sakemm daww il-kwistjonijiet ikunu regolati minn liġijiet jew regolamenti oħra.

(6) Kwalunkwe assoċjazzjoni, organizzazzjoni jew entitajiet legali oħra, li jkollhom xi interess legittimu milli jiżguraw li jkun hemm konformità mad-dispożizzjonijiet ta' dan l-artikolu, ma għandhomx ikunu prekluzi milli jipparteċipaw sew f'isem sew b'appoġġ ta' min jilmenta, bl-approvazzjoni tal-ilmentatur, f'xi proċedura ġudizzjarja jew amministrattiva intiża għall-infurzar tal-obbligi li joħorġu minn dan l-artikolu.

(7) Daww il-persuni u l-organizzazzjonijiet li dan l-artikolu japplika għalihom għandhom jieħdu l-miżuri meħtieġa sabiex jiżguraw li l-prinċipju ta' trattament ugwali jiġi rispettatt f'dak li għandu x'jaqsam mal-aċċess għal, u l-provvista ta' oġġetti u servizzi fil-kuntest ta' dan l-artikolu, u b'mod partikolari li jiġu aboliti dispożizzjonijiet amministrattivi kuntrarji għall-prinċipju ta' trattament ugwali u li kull dispożizzjoni kuntrattwali, regoli interni ta' intrapriżi, u regoli li jirregolaw assoċjazzjonijiet kemm li jagħmlu l-qligħ jew xort'oħra, li jkunu kuntrarji għal tali prinċipju jiġu aboliti jew emendati.

(8) F'kwalunkwe każ, kwalunkwe dispożizzjoni jew prattika li tkun kuntrarja għall-prinċipju ta' trattament ugwali għandha tkun nulla u bla effett.

12. (1) L-ebda bank jew fornitur ta' servizzi finanzjarji ma għandu jiddiskrimina fl-aċċess għal, jew il-provvista ta' kwalunkwe servizz provdut minnu.

Banek, fornituri ta' servizzi finanzjarji u assiguraturo.

(2) L-ebda assiguraturo ma għandu jiddiskrimina fl-aċċess jew provvista ta' kwalunkwe kopertura tal-assigurazzjoni jew xi servizz provdut minnu.

(3) Is-subartikoli (1) u (2) ma għandhomx jitqiesu li jikkostitwixxu diskriminazzjoni sakemm il-kondizzjonijiet li taħthom tiġi offruta jew miżmuma l-faċilità, is-servizz jew l-assigurazzjoni jkunu bbażati fuq konsiderazzjonijiet ġenwini bbażati fuq ir-riskju finanzjarju fl-għoti ta' dawk il-faċilitajiet, dawk is-servizzi jew tali assigurazzjoni.

(4) Għall-finijiet tas-subartikolu (3), l-assiguraturi li jużaw kwalunkwe karatteristika protetta bħala fattur determinanti għall-kondizzjonijiet li taħthom is-servizz tal-assigurazzjoni huwa offrut jew miżmum, għandhom jipprezentaw notifika annwali lill-Kummissjoni, liema notifika għandha tinkludi d-dettalji li ġejjin:

(a) l-isem tal-assigurator;

(b) is-servizz tal-assigurazzjoni rilevanti li fir-rigward tiegħu tkun giet prezentata n-notifika;

(ċ) ir-raġunament li abbażi tiegħu dik il-karatteristika protetta qieghda tintuża bħala fattur determinanti; u

(d) l-informazzjoni statistika jew attwarjali li fuqha dak ir-raġunament ikun qieghed jiġi bbażat.

Persuni b' diżabilità.

Kap. 413.
Kap. 627.

13. L-artikoli 11 u 12 li jirrigwardaw diskriminazzjoni fl-aċċess għal oġġetti u servizzi ma għandhomx jiġu interpretati jew applikati bħala li jagħtu xi dritt jew jimponu xi obbligu lil hinn minn dawk stabbiliti fl-Att dwar l-Opportunitajiet Indaqgħ għal Persuni b'Diżabilità, fl-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità, jew fi kwalunkwe liġi sussidjarja magħmula taħthom:

Iżda l-artikoli 11 u 12 ma għandhomx jiġu interpretati bħala li jillimitaw, jirrestringu jew b'xi mod ieħor jiddeterjoraw xi dritt jew obbligu stabbilit skont dawn il-liġijiet.

Fatturi għal data statistika attwarjali.

14. (1) Bla ħsara għas-subartikolu (2), meta s-sess jittiehed bħala fattur fil-kalkolu tal-premiums u l-benefiċċji għall-finijiet tal-assigurazzjoni u servizzi finanzjarji relatati, dan ma għandux jirriżulta f'differenzi fil-premiums u l-benefiċċji li jirrigwardaw lil persuna fil-każ ta' kuntratti ta' assigurazzjoni konklużi wara l-21 ta' Diċembru 2007 meta d-detentur tal-polza hija persuna.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ma għandhomx japplikaw fil-każ ta' kuntratti ta' assigurazzjoni konklużi qabel il-21 ta' Diċembru 2012, meta s-sess jittiehed bħala fattur determinanti fil-kalkolu tar-riskju, fil-każ li d-differenza li tirriżulta fil-premiums u l-benefiċċji li jirrigwardaw lil persuna jkunu proporzjonati, u meta tali

kalkolu jkun ibbażat fuq data statistika attwarjali relevanti u eżatta.

(3) Għall-finijiet tas-subartikolu (2), il-fornituri tal-assigurazzjoni u ta' servizzi finanzjarji relatati ma' tali fattur determinanti, għandhom jipprezentaw notifika annwali għal dak il-għan lill-Kummissjoni.

(4) Dan l-avviż għandu jinkludi dawn id-dettalji li ġejjin:

- (a) isem il-fornitur tas-servizz;
- (b) il-prodott jew is-servizz li dwaru jkun ġie pprezentat l-avviż;
- (ċ) ir-raġuni għaliex is-sess għandu jittiehed bħala fattur determinanti; u
- (d) id-data statistika attwarjali li fuqha tali raġuni tkun ibbażata.

(5) Għall-finijiet tas-subartikolu (2), kuntratt ta' assicurazzjoni għandu jitqies li ġie konkluż qabel il-21 ta' Diċembru 2012 minkejja li:

- (a) l-imsemmi kuntratt ta' assicurazzjoni għandu jiġi estiż b'mod awtomatiku fi, jew wara l-21 ta' Diċembru 2012 skont it-termini u l-kondizzjonijiet ta' kuntratt konkluż qabel il-21 ta' Diċembru 2012, hawn aktar 'il quddiem imsejjaħ "kuntratt pre-eżistenti";
- (b) l-imsemmi kuntratt ta' assicurazzjoni għandu jiġi emendat fi, jew wara l-21 ta' Diċembru 2012 skont it-termini u l-kondizzjonijiet ta' kuntratt pre-eżistenti, fejn ma għandux ikun meħtieġ il-kunsens tad-detentur tal-polza;
- (ċ) l-imsemmi kuntratt ta' assicurazzjoni għandu jkun polza kumplementari jew ta' kontinwazzjoni li t-termini tagħha jkunu ġew miftelma f'kuntratt pre-eżistenti, fejn l-istess kuntratt ta' assicurazzjoni għandu jkun attivat b'deċiżjoni unilaterali min-naħa tad-detentur tal-polza;
- (d) il-kuntratt li kien diġà jeżisti għandu jiġi emendat fi, jew wara l-21 ta' Diċembru 2012 fuq talba u bil-kunsens tad-detentur tal-polza, sakemm l-istess emenda ma għandhiex tirriżulta f'żieda fil-premium; jew

(e) l-imsemmi kuntratt ta' assigurazzjoni għandu jkun parti minn skema li taħtha kumpanija tal-assigurazzjoni tittrasferixxi lil kumpanija oħra d-drittijiet u l-obbligi kollha tagħha minn kuntratt pre-eżistenti skont id-dispożizzjonijiet tal-Att dwar il-Kummerċ ta' l-Assigurazzjoni.

15. (1) L-ebda persuna ma għandha tiddiskrimina kontra ċittadini tal-Unjoni Ewropea u l-membri tal-familja tagħhom fil-qasam tal-moviment liberu tal-ħaddiema, fir-rigward ta':

(a) aċċess għall-impjegi;

(b) kondizzjonijiet tal-impjieg u x-xogħol, b'mod partikolari fir-rigward tar-remunerazzjoni, it-tkeċċija, is-saħħa u s-sigurtà fuq il-post tax-xogħol u, jekk il-ħaddiema jisfgħu mingħajr xogħol, ingaġġ mill-ġdid jew impjieg mill-ġdid;

(ċ) aċċess għall-vantaġġi soċjali u fiskali;

(d) sħubija fi trade unions u eligibilità għall-korpi rappreżentattivi tal-ħaddiema;

(e) aċċess għat-taħriġ;

(f) aċċess għall-akkomodazzjoni;

(g) aċċess għall-edukazzjoni, l-apprendistat u taħriġ vokazzjonali għat-tfal tal-ħaddiema; u

(h) għajjnuna mogħtija mill-uffiċċji tal-impjegi.

(2) Persuni li jqisu li jkunu batew jew qed ibatu minn ostakoli jew restrizzjonijiet mhux ġustifikati fil-konfront tal-moviment liberu tagħhom, għandu jkollhom id-dritt li jressqu ilment mal-Kummissarju ukoll meta r-relazzjoni li fiha l-allegat ostakolu jew restrizzjoni jkun seħħ tkun intemmet, u l-Kummissarju għandu jistitwixxi proċeduri preskritti f'dan l-Att jew fi kwalunkwe liġi oħra applikabbli.

(3) Persuni li jqisu li huma vittmi ta' diskriminazzjoni fl-ambitu ta' dan l-artikolu, għandu jkollhom id-dritt li jressqu ilment mal-Kummissarju ukoll meta r-relazzjoni li fiha l-allegata diskriminazzjoni seħħet tkun intemmet, u l-Kummissarju għandu jistitwixxi proċeduri preskritti f'dan l-Att jew fi kwalunkwe liġi applikabbli.

(4) Dan l-artikolu ma għandux jipprevjeni lil kwalunkwe assoċjazzjonijiet, organizzazzjonijiet inkluż imsieħba soċjali jew entitajiet legali oħra li jkollhom interess legittimu li jiżguraw li jiġiharsu d-dispożizzjonijiet ta' dan l-artikolu, milli jkunu parti

f'isimhom jew f'isem jew b'sostenn tal-ilmentatur, bl-approvazzjoni tiegħu, fi kwalunkwe proċedura ġudizzjarja u, jew amministrattiva li jkun hemm provdut dwarha għall-infurzar tad-drittijiet taħt dan l-artikolu:

Iżda d-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw bla ħsara għal kwalunkwe kompetenzi u drittijiet kollettivi tal-imsieħba soċjali oħra u r-rappreżentanti tal-impjegati u tal-prinċipali, fejn applikabbli, inkluż id-dritt ta' azzjoni f'isem interess kollettiv.

16. (1) Bla ħsara għad-dispożizzjonijiet tal-artikolu 30 tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, persuna li tallega li kwalunkwe persuna oħra tkun wettqet fil-konfront tagħha, kwalunkwe att li jikser id-dispożizzjonijiet ta' din it-Taqsima, għandu jkollha dritt ta' azzjoni quddiem il-qorti kompetenti ta' ġurisdizzjoni ċivili fejn titlob lill-qorti tordna lill-konvenut sabiex jiddeżisti mill-atti tiegħu li jiksru d-dispożizzjonijiet ta' din it-Taqsima u, fejn applikabbli, tordna li jsir il-ħlas ta' kumpens għal kwalunkwe ħsara mġarrba b'riżultat ta' tali att illegali bi ksur ta' kwalunkwe dispożizzjoni ta' din it-Taqsima.

Proċeduri ċivili.
Kap. 452.

(2) Fi kwalunkwe tali azzjoni kif provdut taħt is-subartikolu (1), l-attur għandu u b'zieda ma' kwalunkwe danni u spejjeż kif jistgħu jkunu ġew attwalment imġarrba u li jistgħu jkunu dovuti skont il-liġi, ikun intitolat li jirkupra bħala kumpens tali somma flus kif il-qorti tista', fid-diskrezzjoni tagħha, tqis li tkun waħda raġonevoli wara li tqis iċ-ċirkostanzi kollha tal-każ. Il-qorti għandha madankollu tiżgura li l-kumpens ikun dissważiv u proporzjonat għall-ħsara mġarrba.

(3) Fi kwalunkwe proċeduri taħt is-subartikolu (1) u fi kwalunkwe proċeduri oħra li jikkonċernaw l-applikazzjoni tal-prinċipju ta' trattament ugwali quddiem awtorità kompetenti, hlief għall-Qorti imsemmija fis-subartikolu (1), fejn persuni li jqisu lilhom infushom li ġew trattati b'mod ingust minħabba li l-prinċipju ta' trattament ugwali ma ġiex applikat għalihom jistabilixxu, quddiem il-Qorti, jew quddiem tali awtorità kompetenti oħra, fatti li minnhom jista' jiġi preżunt li ġew trattati b'mod anqas favorevoli, u għandu jkun id-dmir tal-konvenut jew tal-persuna li kontra tagħha jkunu ingiebu tali proċeduri sabiex jagħtu prova li ma kien hemm l-ebda ksur tal-prinċipju ta' trattament ugwali, jew li tali trattament inqas favorevoli kien ġustifikat skont id-dispożizzjonijiet ta' din it-Taqsima. Il-Qorti jew l-awtorità kompetenti oħra għandha tilqa' l-ilment, jekk il-konvenut jew il-persuna li kontra tagħha jkunu nġiebu l-proċeduri jonqsu milli jipprovaw li ma ksur kwalunkwe dispożizzjoni tal-liġi.

TAQSIMA III
KUMMISSJONI NAZZJONALI GĦAD-DRITTIJET TAL-
BNIEDEM U L-UGWALJANZA

Kummissjoni
 Nazżjonali
 għad-Drifttijiet
 tal-Bniedem u l-
 Ugwaljanza.

17. (1) Għandu jkun hemm Kummissjoni li għandha tkun magħrufa bħala l-Kummissjoni Nazżjonali għad-Drifttijiet tal-Bniedem u l-Ugwaljanza, sabiex tippromwovi u tipprotegi d-drifttijiet tal-bniedem u d-drift għal trattament ugwali u n-nondiskriminazzjoni, skont il-funzjonijiet u s-setgħat assenjati lilha permezz ta' dan l-Att.

(2) Il-Kummissjoni għandha tkun responsabbli lejn il-Parlament, u għandha twettaq il-funzjonijiet tagħha b'imparzjalità u indipendenza.

(3) Fit-twettiq tal-funzjonijiet tagħhom taht dan l-Att, il-Kummissarju u l-membri tal-Kummissjoni ma għandhomx ikunu soġġetti għad-direzzjoni jew il-kontroll ta' kwalunkwe persuna jew awtorità oħra.

(4) Il-Kummissjoni għandha, fit-twettiq tal-funzjonijiet tagħha, tqis u tkun iggwidata, sa fejn tqis xieraq, mill-aħjar prinċipji internazzjonali applikabbli għall-istituzzjonijiet nazżjonali tad-drifttijiet tal-bniedem u korpi għall-ugwaljanza.

(5) Il-Kummissjoni għandha tkun korp kostitwit li jkollu personalità ġuridika distinta u għandu jkollha l-kapaċità li tidhol f'kuntratti, li timpjega persunal, li takkwista, iżżomm u tiddisponi minn kwalunkwe proprjetà għall-finijiet tal-funzjonijiet tagħha taht dan l-Att jew kwalunkwe liġi oħra, tħarrek u tigi mħarrka, u tagħmel dawk il-ħwejjeġ u transazzjonijiet kollha li jkunu inċidentali jew li jwasslu għall-eżerċizzju jew il-qadi tal-funzjonijiet tagħha skont dan l-Att.

Kompożizzjoni
 tal-
 Kummissjoni.

18. Il-Kummissjoni għandha tkun magħmula minn Kummissarju u disa' (9) membri oħra.

Eliġibbiltà.

19. (1) Persuna għandha tkun eliġibbli għall-ħatra bħala Kummissarju jekk dik il-persuna jkollha għarfien u mill-anqas hames (5) snin ta' esperjenza professjonali fi kwalunkwe qasam fi hdan is-settur tad-drifttijiet tal-bniedem jew l-ugwaljanza.

(2) Persuna għandha tkun eliġibbli għall-ħatra bħala membru tal-Kummissjoni jekk dik il-persuna jkollha għarfien ta', u mill-anqas tliet (3) snin ta' esperjenza professjonali jew volontarja fi kwalunkwe qasam fi hdan is-settur tad-drifttijiet tal-bniedem jew l-ugwaljanza.

Skwalifika.

20. (1) Persuna ma għandhiex tkun kwalifikata għall-ħatra bħala Kummissarju jew membru tal-Kummissjoni jekk dik il-persuna:

(a) tkun membru tal-Kamra tad-Deputati jew tal-Parlament Ewropew;

(b) tkun membru ta' Kunsill Lokali;

(c) tkun Imħallef jew Maġistrat fil-kariga;

(d) tkun legalment interdetta jew inabilitata;

(e) tkun giet ikkundannata għal reat li jirrelata ma', jew instabet personalment responsabbli għal, ksur tad-drittijiet tal-bniedem jew tad-dritt għal trattament ugwali u n-nondiskriminazzjoni;

(f) tkun giet ikkundannata minn qorti għal xi perjodu ta' prigunerija jew tkun instabet hatja minn qorti ta' kwalunkwe wiehed mir-reati li jinsabu fit-Titoli III, V jew VI tat-Taqsima II tal-Ewwel Ktieb tal-Kodiċi Kriminali;

Kap. 9.

(g) hija suġġetta għall-iskwalifika taht l-artikolu 320 tal-Att dwar il-Kumpaniji;

Kap. 386.

(h) hija involuta jew għandha interess fi kwalunkwe intrapriża jew attività li x'aktarx taffettwa l-qadi xieraq tal-funzjonijiet tagħha bħala membru fil-Kummissjoni;

(i) hija falluta mhux rijabilitata jew għamlet arrangament mal-kredituri tagħha, jew hija insolventi; jew

(j) tkun digà okkupat kariga fil-Kummissjoni għal żewġ (2) termini.

(2) Matul it-terminu tal-kariga tagħhom, il-Kummissarju u l-membri tal-Kummissjoni, ma għandhomx iżommu kwalunkwe pożizzjoni jew kwalunkwe kariga li ma tkunx kompatibbli mat-tweqqif korrett tad-dmirijiet uffiċjali tagħhom taht dan l-Att, jew mal-imparzjalità u l-indipendenza tagħhom jew mal-fiduċja pubblika fihom.

21. (1) Il-ħatra tal-Kummissarju għandha ssir mill-President tar-Repubblika li jaġixxi skont riżoluzzjoni tal-Kamra li tgħaddi bil-voti ta' mhux anqas minn żewġ terzi (2/3) tal-membri kollha tal-Kamra: ħatra.

Iżda jekk ir-riżoluzzjoni meta titqiegħed għall-vot ma jkollhiex is-sostenn tal-voti ta' mhux anqas minn żewġ terzi (2/3) tal-membri kollha tal-Kamra, għandu jittiehed it-tieni vot fuq ir-riżoluzzjoni mhux aktar kmieni minn sebat (7) ijiem mill-ewwel vot li

għandu jeħtieġ ukoll il-voti ta' mhux anqas minn żewġ terzi (2/3) tal-membri kollha tal-Kamra. Jekk fit-tieni vot ir-riżoluzzjoni ma jkollhiex is-sostenn tal-voti ta' mhux anqas minn żewġ terzi (2/3) tal-membri kollha tal-Kamra, għandu jittieħed it-tielet vot mhux aktar kmieni minn sebat (7) ijiem mit-tieni vot. Fl-imsemmi tielet vot ir-riżoluzzjoni għandha tkun approvata diment li jkollha s-sostenn tal-maġġoranza tal-voti tal-membri kollha tal-Kamra:

Iżda wkoll jekk ikun se jittieħed it-tieni vot, kandidati ġodda għall-kariga ta' Kummissarju jkunu jistgħu jiġu nominati, permezz ta' emenda għall-mozzjoni originali, flimkien ma', jew minflok kwalunkwe kandidat preċedement nominat ieħor, qabel it-teħid tat-tieni vot:

Iżda wkoll meta persuna li ma tkunx membru tal-Kamra tad-Deputati tiġi eletta bħala Speaker tal-Kamra, l-imsemmija persuna ma għandhiex titqies li tkun membru tal-Kamra tad-Deputati għall-fini li tiġi stabbilita l-maġġoranza meħtieġa b'dan l-artikolu.

(2) Il-Ministru għandu jahtar Kummissjoni ta' Ħatra, li għandha tkun magħmula minn Chairperson li jkun iċ-Chairperson tal-Kummissjoni dwar is-Servizz Pubbliku, *ex officio*, minn persuna li jkollha għarfien fi kwalunkwe qasam fi hdan is-settur tad-drittijiet tal-bniedem jew l-ugwaljanza u membru ieħor li għandu jkun Imħallef jew Maġistrat irtirat.

(3) Il-Kummissjoni ta' Ħatra għandha toħroġ sejha pubblika għal applikazzjonijiet għal persuni li għandhom il-kwalifiki u l-esperjenza meħtieġa sabiex jinhatru bħala membri tal-Kummissjoni skont l-artikolu 19(2):

Iżda jekk wara li jsiru żewġ (2) sejhiet pubbliċi għal applikazzjonijiet skont dan is-subartikolu, ma japplikawx biżżejjed persuni sabiex il-Kummissjoni tkun tista' twettaq il-funzjonijiet tagħha skont dan l-Att, il-Kummissarju għandu, wara li jikkonsulta mal-Kummissjoni ta' Ħatra, jinnomina persuni li jkunu eliġibbli li jinhatru bħala membri tal-Kummissjoni skont l-artikolu 19(2).

(4) Il-membri tal-Kummissjoni għandhom jinhatru mill-Kummissarju, li jaġixxi fuq ir-rakkomandazzjoni magħmula mill-Kummissjoni ta' Ħatra wara li tkun eżaminat l-applikanti jew lill-persuni nominati, skont il-każ:

Iżda l-għażla tal-membri tal-Kummissjoni għandha kemm jista' jkun possibbli tirrifletti rappreżentazzjoni bilanċjata, wiesgħa u pluralista tas-soċjetà Maltija, b'kompetenza wiesgħa fi hdan is-settur tad-drittijiet tal-bniedem u tad-dritt għal trattament ugwali u n-

nondiskriminazzjoni:

Iżda wkoll fejn il-Kummissarju jahtar kwalunkwe persuna nominata minnu, il-Kummissarju għandu, sa mhux aktar tard minn tliet (3) xhur mill-ħatra, jippubblika rapport li jipprovdi d-dettalji tal-proċess taż-żewġ (2) sejhiet pubbliċi, ir-raġunijiet tan-nomini tiegħu u r-rakkomandazzjoni tal-Kummissjoni ta' Ħatra fir-rigward tal-persuni nominati.

(5) Il-Kummissarju u l-membri tal-Kummissjoni għandhom jinnominaw kwalunkwe wiehed (1) mill-membri tagħha bħala Deputat Kummissarju u l-membri hekk mahtur għandu jkollu s-setgħat kollha u għandu jaqdi l-funzjonijiet kollha tal-Kummissarju fin-nuqqas jew l-inabbiltà temporanja tiegħu jew meta l-Kummissarju jkun bil-vaganzi, jew kull meta l-kariga ta' Kummissarju tkun battala. L-isem tal-persuna mahtura bħala Deputat Kummissarju għandu jiġi ppubblikat fil-Gazzetta:

Iżda matul il-perjodu li fih id-Deputat Kummissarju jkun qiegħed jaqdi l-funzjonijiet kollha tal-Kummissarju skont dan is-subartikolu għandu jithallas salarju suffiċjenti li ma għandux jeċċedi l-ammont li jkun qiegħed jiġi mħallas lill-Kummissarju.

22. (1) Kwalunkwe membru tal-Kummissjoni, inkluż il-Kummissarju, li jkollu xi interess dirett jew indirett fi kwalunkwe kwistjoni jew sitwazzjoni li l-Kummissjoni tkun qiegħda tikkunsidra jew tinvestiga, li ma huwiex interess li jiskwalifika tali membru milli jibqa' membru, għandu jiżvela n-natura tal-interess tiegħu fl-ewwel laqgħa tal-Kummissjoni wara li l-fatti rilevanti ġew a konjizzjoni tal-membri.

Dikjarazzjoni u kunflitt ta' interess.

(2) Tali żvelar għandu jiġi mniżżel fil-minuti tal-laqgħa, u l-membri li jkollu l-interess kif hawn qabel imsemmi għandu jirtira minn kwalunkwe laqgħa fejn tali kwistjoni jew sitwazzjoni hija diskussa.

23. It-terminu tal-kariga tal-Kummissarju u tal-membri tal-Kummissjoni għandu jkun ta' ħames (5) snin:

Terminu tal-kariga.

Iżda l-Kummissarju u kull membru tal-Kummissjoni għandhom ikunu eligibbli sabiex jinħatru mill-ġdid għal terminu ulterjuri biss ta' ħames (5) snin bl-istess proċedura ta' ħatra skont is-subartikoli (1) u (4) tal-artikolu 21, skont il-każ.

24. (1) Bla ħsara għad-dispożizzjonijiet tal-artikolu 23, il-Kummissarju u l-membri tal-Kummissjoni ma għandhomx jitneħħew mill-kariga hlief mill-President tar-Repubblika, li għandu jaġixxi skont indirizz mill-Kamra, bis-sostenn tal-voti ta' mhux anqas minn żewġ

Terminazzjoni u riżenja.

terzi (2/3) tal-membri tagħha, bit-talba għal tali tneħħija abbażi tar-raġunijiet li l-Kummissarju jew dak il-membru:

(a) għie pruvat li huwa inkapaċi li jaqdi l-funzjonijiet tal-kariga tiegħu jew li huwa ta' imġiba ħażina;

(b) iżomm kwalunkwe kariga li hija inkompatibbli mat-twettiq korrett tad-dmirijiet uffiċjali tiegħu jew mal-imparzjalità u l-indipendenza tiegħu jew mal-fiduċja pubblika fih; jew

(ċ) ma għadux iktar eliġibbli għall-ħatra bhala Kummissarju jew membru, skont l-artikolu 20.

(2) Il-Parlament jista' b'ligi jirregola l-proċedura għall-preżentata ta' indirizz u għall-investigazzjoni u prova dwar it-terminazzjoni tal-kariga tal-Kummissarju jew ta' membru tal-Kummissjoni skont id-dispożizzjonijiet tas-subartikolu preċedenti.

(3) Il-Kummissarju u l-membri tal-Kummissjoni jistgħu, fi kwalunkwe waqt, jirriżenjaw mill-kariga tagħhom permezz ta' avviż bil-miktub lill-President tar-Repubblika, u r-riżenja għandha tkun effettiva mill-istess gurnata li fiha l-President tar-Repubblika jircievi l-avviż.

Proċeduri tal-Kummissjoni.

25. (1) Il-laqgħat tal-Kummissjoni għandhom jissejhu mill-Kummissarju kull meta dan ikun meħtieġ għat-twettiq xieraq tal-funzjonijiet tagħha iżda fi kwalunkwe każ mhux anqas minn darbtejn (2) kull xahar, fuq inizjattiva tiegħu stess jew fuq talba ta' kwalunkwe żewġ (2) membri tal-Kummissjoni:

Iżda l-membri tal-Kummissjoni jistgħu, permezz ta' vot, jiddeċiedu li f'xahar partikolari jiltaqgħu darba (1) biss, u r-raġuni għal din id-deċiżjoni għandha tiġi mnizzla fil-minuti tal-laqgħa.

(2) Il-kworum għall-laqgħat tal-Kummissjoni għandu jkun ta' sitt (6) membri, li wieħed (1) minnhom għandu jkun il-Kummissarju jew id-Deputat Kummissarju.

(3) Id-deċiżjonijiet tal-Kummissjoni għandhom jgħaddu b'maġġoranza sempliċi tal-voti tal-membri preżenti. Il-Kummissarju għandu fil-każ ta' voti indaqs ikollu wkoll vot deċiżiv.

(4) Il-validità ta' kwalunkwe proċedimenti tal-Kummissjoni ma għandhiex tkun affettwata minn kwalunkwe post battal fost il-membri tal-Kummissjoni jew minħabba kwalunkwe nuqqas fil-ħatra ta' xi membru.

(5) Il-Kummissjoni tista' taħtar segretarju sabiex jassisti fit-teħid

tal-minuti tal-laqgħat tagħha.

(6) Il-Kummissjoni tista', minn żmien għal żmien, tistieden kwalunkwe persuna sabiex tattendi laqgħa waħda jew aktar minn tagħha, b'mod partikolari sabiex tipprovdi parir espert dwar kwistjonijiet speċifiċi.

(7) Il-Kummissjoni tista' tahtar sottokomitati jew gruppi ta' hidma kif tqis li hu xieraq sabiex taqdi aħjar l-funzjonijiet tagħha:

Iżda kwalunkwe sottokomitati jew grupp ta' hidma hekk maħtur għandu dejjem ikun ippresedut minn membru tal-Kummissjoni.

(8) Bla hsara għad-dispożizzjonijiet ta' dan l-Att, il-Kummissjoni għandha tirregola l-proċeduri tagħha stess.

(9) Ir-regoli relatati mal-proċeduri tal-Kummissjoni skont is-subartikolu (8) għandhom isiru bil-miktub sa mhux iktar tard minn tmax (12)-il xahar mid-dhul fis-seħh ta' dan l-Att, u għandhom ikunu pubblikament disponibbli u faċilment aċċessibbli u għandhom, sa fejn ikun possibbli, jindirizzaw il-kwistjonijiet kollha relatati mal-funzjonijiet tal-Kummissjoni.

26. (1) Għandu jiġi mwaqqaf Kumitat Konsultattiv Permanenti fi hdan il-Kummissjoni li għandu jkun magħmul kif ġej:

Kumitat
Konsultattiv
Permanenti.

(a) il-Kummissarju dwar il-Vjolenza Abbażi tal-Ġeneru u Vjolenza Domestika *ex officio*;

(b) il-Kummissarju għad-Drittijiet ta' Persuni b'Diżabilità *ex officio*;

(ċ) il-Kummissarju għall-Anzjani *ex officio*;

(d) il-Kummissarju għall-Ħarsien u l-Iżvilupp tal-Prigunieri *ex officio*;

(e) il-Kummissarju għall-Infommazzjoni u l-Protezzjoni tad-Data *ex officio*;

(f) il-Kummissarju għal Organizzazzjonijiet Volontarji *ex officio*;

(g) il-Kummissarju għas-Saħħa Mentali *ex officio*; u

(h) il-Kummissarju għat-Tfal *ex officio*.

(2) Il-Kumitat Konsultattiv Permanenti għandu jiltaqa' kull meta

dan ikun meħtieġ u għandu jirregola l-proċeduri tiegħu stess.

(3) Il-Kumitat Konsultattiv Permanenti għandu jagħti r-rakkomandazzjonijiet tiegħu lill-Kummissjoni fejn dan ikun mitlub mill-Kummissjoni, liema rakkomandazzjonijiet ma għandhomx ikunu vinkolanti fuq il-Kummissjoni.

(4) Il-Kumitat Konsultattiv Permanenti għandu jkollu s-setgħa sabiex jissottometti lill-Kummissjoni, fuq bażi konsultattiva u fuq inizjattiva tiegħu stess, opinjonijiet, rakkomandazzjonijiet, proposti u rapporti dwar kwalunkwe materja li jikkonċerna l-promozzjoni u l-protezzjoni tad-drittijiet tal-bniedem u tad-dritt għal trattament ugwali u n-nondiskriminazzjoni.

Rappreżentanza
legali u
ġuridika.

27. Ir-rappreżentanza legali u ġuridika tal-Kummissjoni għandha tkun vestita fil-Kummissarju, iżda l-Kummissjoni tista' taħtar kwalunkwe wieħed jew aktar mill-membri tagħha, jew kwalunkwe wieħed jew aktar mill-uffiċjali jew impjegati tagħha, sabiex jidhru f'isimha u, jew għan-nom tagħha fi kwalunkwe proċeduri ġudizzjarji u fi kwalunkwe att, kuntratt, ftehim jew kwalunkwe dokument ieħor ikun li jkun.

TAQSIMA IV FUNZJONIJIET U SETGĦAT

Funzjonijiet tal-
Kummissjoni.

28. (1) Il-funzjonijiet tal-Kummissjoni għandhom ikunu dawn li ġejjin:

(a) li tippromwovi u tipproteġi d-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni;

(b) li taħdem favur id-dritt għal trattament ugwali u n-nondiskriminazzjoni u favur l-eliminazzjoni tal-abbuż tad-drittijiet tal-bniedem u ta' kwalunkwe forma ta' diskriminazzjoni;

(ċ) li tinkoraġġixxi l-iżvilupp ta' kultura ta' rispett għad-drittijiet tal-bniedem u tad-dritt għal trattament ugwali u n-nondiskriminazzjoni u għad-djalogu interkulturali;

(d) li ssahħaħ l-għarfien pubbliku dwar id-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni u tiġġieled il-forom kollha ta' diskriminazzjoni billi żżid il-kuxjenza pubblika, speċjalment permezz tat-tixrid tal-informazzjoni u tal-edukazzjoni;

(e) li tiżgura li l-awtoritajiet pubbliċi jaderixxu mal-Artikolu 1 tat-Tnax-il Protokoll tal-Konvenzjoni għall-

Protezzjoni tad-Drittijiet tal-Bniedem u Libertajiet Fundamentali permezz tas-setgħat mogħtija lilha f'dan l-Att, u ssahħaħ l-għarfien u l-applikazzjoni tiegħu;

(f) li tiżgura għodda u formati ta' komunikazzjoni xierqa għal kull persuna, u tiffoka b'mod partikolari fuq persuni li l-aċċess tagħhom għall-informazzjoni huwa jew jista' jiġi ostakolat, bħal pereżempju minħabba l-istatus ekonomiku prekarju tagħhom, l-età, id-diżabilità, il-livell ta' litteriżmu, in-nazzjonalità jew l-istatus ta' residenza tagħhom, jew minħabba n-nuqqas ta' aċċess tagħhom għal għodda online;

(g) li tiżgura l-aċċessibilità u l-provvista ta' akkomodazzjonijiet raġonevoli għall-persuni b'diżabilità sabiex jiġi garantit l-aċċess ugwali tagħhom għas-servizzi u l-attivitajiet tagħha kollha, inkluż l-assistenza lill-vittmi, il-ġestjoni tal-ilmenti, is-soluzzjoni alternattiva tat-tilwim, l-informazzjoni u l-pubblikazzjonijiet, kif ukoll l-attivitajiet ta' prevenzjoni, ta' promozzjoni u ta' sensibilizzazzjoni;

(h) li tissottometti lill-Gvern, lill-Parlament u lill-korpi pubbliċi, fuq bażi konsultattiva, fuq it-talba tal-awtoritajiet konċernati jew fuq inizjattiva tagħha stess, opinjonijiet, rakkomandazzjonijiet, proposti u rapporti dwar kwalunkwe kwistjoni li tikkonċerna d-diskriminazzjoni, il-promozzjoni u l-protezzjoni tad-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni u li titlob informazzjoni minn l-istess awtoritajiet sabiex tkun tista' tissorvelja l-implimentazzjoni tar-rakkomandazzjonijiet u l-proposti tagħha;

(i) li tissorvelja u teżamina l-abbozzar u l-implimentazzjoni tal-politiki nazzjonali dwar id-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni u kull forma ta' diskriminazzjoni u li tagħmel dawk ir-rakkomandazzjonijiet li tqis xierqa sabiex tiżgura li dawn il-politiki huma konformi mad-drittijiet tal-bniedem u mad-dritt għal trattament ugwali u n-nondiskriminazzjoni;

(j) li tissorvelja u teżamina l-abbozzar u l-implimentazzjoni ta' miżuri u politiki nazzjonali dwar il-prinċipju tal-azzjoni pożittiva, u li tagħmel tali rakkomandazzjonijiet li tqis xierqa sabiex tiżgura li dawn il-miżuri u politiki huma konformi mal-prinċipju tal-azzjoni pożittiva;

(k) li teżamina u tirrevedi l-adegwatezza u l-effettività

ta' dispożizzjonijiet leġiżlattivi jew amministrattivi fis-seħħ, kif ukoll abbozzi ta' liġi u proposti leġiżlattivi, fuq talba tal-awtoritajiet jew fuq inizjattiva tagħha stess, u li tagħmel tali rakkomandazzjonijiet li tqis xierqa sabiex tiżgura li dawn id-dispożizzjonijiet huma konformi mad-drittijiet tal-bniedem u mad-dritt għal trattament ugwali u n-nondiskriminazzjoni, u jekk ikun meħtieġ, li tirrakkomanda l-adozzjoni ta' leġiżlazzjoni ġdida, l-emendi ta' leġiżlazzjoni diġà fis-seħħ u l-adozzjoni jew l-emendi ta' miżuri amministrattivi;

(l) li tissorvelja l-eżekuzzjoni ta' deċiżjonijiet minn qrati u tribunali kompetenti sabiex jittrattaw dwar id-drittijiet tal-bniedem jew id-dritt għal trattament ugwali u n-nondiskriminazzjoni;

(m) li tissorvelja u tippromwovi l-armonizzazzjoni tal-leġiżlazzjoni nazzjonali, tar-regolamenti u tal-prattiċi ma' strumenti internazzjonali tad-drittijiet tal-bniedem u tal-ugwaljanza u tan-nondiskriminazzjoni li għalihom Malta hija parti, u l-implimentazzjoni effettiva tagħhom;

(n) li tinkoraġġixxi r-ratifika jew l-adeżjoni ta' strumenti internazzjonali tad-drittijiet tal-bniedem u tal-ugwaljanza u tan-nondiskriminazzjoni, u l-implimentazzjoni effettiva tagħhom;

(o) li thejji rapporti u li tikkummissjona riċerki fuq is-sitwazzjoni nazzjonali fir-rigward tad-drittijiet tal-bniedem u tad-dritt għal trattament ugwali u n-nondiskriminazzjoni, jew fuq kwalunkwe suġġett jew kwalunkwe settur speċifiku ieħor relatat ma' dawk imsemmija qabel;

(p) li żżomm fis-seħħ konsultazzjoni, tiżviluppa relazzjonijiet u, fejn tqis li jkun xieraq għat-tweqqif aħjar tal-funzjonijiet tagħha, tikkollabora mal-organizzazzjonijiet governattivi, ma' trade unions, ma' assoċjazzjonijiet ta' prinċipali, ma' korpi ġudizzjarji, ma' assoċjazzjonijiet tal-avukati, mal-midja, mal-organizzazzjonijiet mhux governattivi, u ma' assoċjazzjonijiet oħra tas-soċjetà ċivili responsabbli għall-promozzjoni u l-protezzjoni tad-drittijiet tal-bniedem u tad-dritt għal trattament ugwali u n-nondiskriminazzjoni jew għall-eliminazzjoni tal-ksur tad-drittijiet tal-bniedem u d-diskriminazzjoni, jew li huma dedikati għall-protezzjoni ta' gruppi li jinsabu f'sitwazzjoni ta' vulnerabilità;

(q) li tikkontribwixxi fil-formulazzjoni ta' programmi għat-tagħlim u għar-riċerka dwar id-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni, u sabiex

tieġu sehem fl-eżekuzzjoni tagħhom fl-iskejjel, kulleġġi, universitajiet u stabbilimenti edukattivi oħra;

(r) li tikkollabora ma' organizzazzjonijiet oħra sabiex tippromwovi u tipproteġi id-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni;

(s) li tipparteċipa fi, tikkontribwixxi, u taqşam informazzjoni ma' entitajiet internazzjonali oħra fil-fora internazzjonali għall-iżvilupp globali u reġjonali tad-drittijiet tal-bniedem u n-nondiskriminazzjoni;

(t) li ttipprovdi l-għarfien u l-ħiliet meħtieġa sabiex tiffacilita l-implimentazzjoni tal-legiżlazzjoni dwar id-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni fis-seħħ f'Malta, fost l-oħrajn, permezz tal-użu ta' taħriġ u kampanji ta' sensibilizzazzjoni;

(u) li tippubblika kwalunkwe materjal li tqis li hu ta' interess pubbliku skont id-dispożizzjonijiet ta' dan l-Att;

(v) li twettaq investigazzjonijiet ġenerali u indipendenti meta jkollha suspett raġonevoli ta' ksur tad-drittijiet tal-bniedem jew tad-dritt għal trattament ugwali u n-nondiskriminazzjoni li hu ta' interess pubbliku jew li jaffettwa settur jew grupp partikolari tas-soċjetà, u toħroġ l-opinjoni tagħha;

(w) li tinvestiga b'mod indipendenti ilmenti ta' xorta individwali li jallegaw ksur tad-drittijiet tal-bniedem jew tad-dritt għal trattament ugwali u n-nondiskriminazzjoni;

(x) li ttipprovdi servizzi ta' medjazzjoni bil-għan li tiġi rizzolta l-kwistjoni b'mod amikevoli skont l-artikolu 29(7);

(y) li tipparteċipa bħala *amicus curiae* fi proċeduri quddiem kwalunkwe qorti, tribunal, medjatur u, jew forum ieħor, li fihom jkunu qegħdin jiġu diskussi u deċiżi punti ta' liġi dwar id-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni, fuq talba tal-Kummissjoni jew fuq talba tal-qorti, tribunal, medjatur u, jew forum ieħor, skont il-każ;

(z) li tipparteċipa quddiem kwalunkwe qorti, tribunal, medjatur u, jew forum ieħor, b'appoġġ għall-allegat vittma jew diversi vittmi, li fihom jkunu qegħdin jiġu diskussi u deċiżi punti ta' liġi dwar id-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni, bl-approvazzjoni ta' dik il-persuna;

(aa) li jidhru quddiem kwalunkwe qorti, tribunal, medjatur u, jew forum ieħor, f'isem hađdiem li jkun allegat vittma ta' ksur ta' kwalunkwe dritt jew obbligu relatat mal-prinċipju ta' paga ugwali, bl-approvazzjoni ta' dik il-persuna;

(ab) li tipprovdi għajnuna, skont iċ-ċirkostanzi, lill-persuni fl-infurzar tad-drittijiet tagħhom taħt dan l-Att u inizjalment billi tinformahom dwar:

(i) il-qafas legali, inkluż dwar il-parir immirat lejn is-sitwazzjoni speċifika tagħhom;

(ii) is-servizzi offruti mill-Kummissjoni u l-aspetti proċedurali relatati;

(iii) ir-rimedji disponibbli, inkluż il-possibbiltà li tinfetaħ kawża fil-qorti;

(iv) ir-regoli ta' kunfidenzjalità applikabbli u l-protezzjoni tad-data personali; u

(v) il-possibbiltajiet li jingħataw appoġġ psikoloġiku jew tipi oħra ta' appoġġ rilevanti minn korpi jew organizzazzjonijiet oħra;

(aċ) li tippromwovi, tanalizza, tissorvelja u tappoġġja l-bilanċ bejn il-ġeneri fuq il-bordijiet ta' kumpaniji elenkati sabiex thejji rapport annwali dwar l-implimentazzjoni tad-Direttiva (UE) 2022/2381 tal-Parlament Ewropew u tal-Kunsill tat-23 ta' Novembru 2022 dwar it-titjib tal-bilanċ bejn il-ġeneri fost diretturi ta' kumpaniji elenkati u miżuri relatati:

Iżda sabiex twettaq il-funzjonijiet tagħha taħt dan il-paragrafu, l-Kummissjoni għandha, sa fejn ikun meħtieġ, tiġi pprovdata mill-Awtorità għas-Servizzi Finanzjarji ta' Malta b'informazzjoni dwar ir-rappreżentazzjoni tal-ġeneri fuq il-bordijiet ta' kumpaniji elenkati u b'informazzjoni dwar il-miżuri meħuda bil-għan li jintlaħqu l-oġettivi applikabbli għall-finijiet tal-bilanċ bejn il-ġeneri fuq il-bordijiet ta' kumpaniji elenkati, skont l-imsemmija Direttiva; u

(ad) li twettaq kwalunkwe funzjoni oħra li tista' tiġi assenjata lilha permezz ta' dan l-Att jew kwalunkwe liġi oħra.

(2) Il-funzjonijiet tal-Kummissjoni għandhom jiġu eżerċitati bla ħsara għad-dispożizzjonijiet tal-Att dwar Opportunitajiet Indaqg għal Persuni b'Dizabilità.

(3) Il-Ministru jista' jagħmel regolamenti sabiex jagħti effett aħjar lid-dispożizzjonijiet ta' dan l-artikolu.

29. (1) Il-Kummissarju jista' jibda investigazzjonijiet ġenerali u indipendenti fuq inizjattiva tiegħu stess, meta jkollu suspett raġonevoli ta' ksur tad-drittijiet tal-bniedem jew tad-dritt għal trattament ugwali u n-nondiskriminazzjoni, li jkun ta' interess pubbliku jew li jaffettwa settur jew grupp partikolari tas-soċjetà, u jipubblika l-opinjoni tiegħu. Investigazzjonijiet u ilmenti.

(2) Il-Kummissarju jista' wkoll jibda investigazzjonijiet malli jirċievi ilment bil-miktub jew online, minn persuna li tallega li tkun vittma ta' ksur tad-drittijiet tal-bniedem jew tad-dritt għal trattament ugwali u n-nondiskriminazzjoni:

Iżda kwalunkwe assoċjazzjoni, organizzazzjoni u entità legali li għandha interess legittimu li tipproteġi d-drittijiet tal-bniedem jew id-dritt għal trattament ugwali u n-nondiskriminazzjoni tista' tippreżenta ilment lill-Kummissarju f'isem ta' persuna li temmen li hija vittma tal-ksur tad-drittijiet tal-bniedem jew tad-dritt għal trattament ugwali u n-nondiskriminazzjoni, fejn titlob lill-Kummissarju sabiex jibda investigazzjoni skont dan l-Att:

Iżda wkoll il-kunsens bil-miktub tal-persuna li f'isimha jkun qed jiġi preżentat l-ilment skont dan is-subartikolu għandu jkun anness mal-ilment.

(3) Il-Kummissarju ma għandux jieħu konjizzjoni ta' kwalunkwe ilment kemm-il darba tali ilment ma jsirx fi żmien sentejn (2) minn meta l-allegat att ikun seħħ, jew minn meta l-persuna li ressqet l-ilment tkun saret taf għall-ewwel darba bih, jew jekk l-allegat att hu wiehed kontinwu, minn meta l-att waqaf jew ma baqax ikollu effett diskriminatorju, liema minnhom tiġi l-ewwel.

(4) Hekk kif il-Kummissarju jirċievi ilment, hu għandu jinforma lill-ilmentatur, fi żmien raġonevoli, jekk l-ilment ikunx ser jingħalaq jew jekk ikunx hemm raġunijiet sabiex dan jitkompla.

(5) Ilment imressaq skont dan l-artikolu jista' jiġi sottomess bil-Malti jew bl-Ingliż u l-Kummissarju, fejn iħoss li hu meħtieġ, jista' jieħu l-passi neċessarji kollha sabiex jassisti lill-persuni sabiex jissottomettu l-ilment tagħhom.

(6) F'kwalunkwe każ fejn ilment jirrelata dwar diskriminazzjoni abbażi ta' raġunijiet multipli u waħda minn dawn ir-raġunijiet tkun id-diżabilità, il-Kummissarju jista' jikkonsulta u, jew jikkollabora mal-Kummissjoni għad-Drittijiet ta' Persuni b'Diżabilità stabbilita permezz tal-Att dwar Opportunitajiet Indaqs għal Persuni b'Diżabilità:

Kap. 413.

Iżda f'każijiet fejn il-Kummissarju jikkonsulta u, jew jikkollabora kif imsemmi qabel, il-Kummissarju jista', bil-għan li jinvestiga l-ilment b'mod effettiv, jiżvela data personali lill-Kummissarju għad-Drittijiet ta' Persuna b'Diżabilità:

Kap. 413.

Iżda wkoll fejn ilment jirrelata biss dwar id-diżabilità bħala karatteristika protetta skont id-dispożizzjonijiet ta' dan l-Att, id-dispożizzjonijiet rilevanti tal-Att dwar Opportunitajiet Indaqs għal Persuni b'Diżabilità għandhom japplikaw.

Kap. 474.

(7) Il-Kummissarju jista', fi kwalunkwe żmien qabel il-konklużjoni tal-investigazzjoni u jekk ikun tal-opinjoni li tkun alternattiva adegwata, jipprovi proċess ta' medjazzjoni bil-għan li tiġi riżolta l-kwistjoni b'mod amikevoli, u f'każ li l-partijiet jaqblu għall-proċedimenti ta' medjazzjoni d-dispożizzjonijiet tal-Att dwar il-Medjazzjoni għandhom japplikaw *mutatis mutandis*:

Iżda f'każ li l-medjazzjoni ma tirriżultax fi ftehim bejn il-partijiet, il-partecipazzjoni fil-medjazzjoni ma għandhiex tippregudika d-dritt tal-partijiet jew tal-Kummissarju li jagħmlu użu mir-rimedji legali oħra lilhom mogħtija skont dan l-Att jew kwalunkwe liġi oħra.

(8) F'kwalunkwe każ, il-Kummissarju, il-membri tal-Kummissjoni u l-uffiċjali tal-Kummissjoni għandhom jittrattaw l-informazzjoni kollha li jiksbu matul il-qadi tal-funzjonijiet tagħhom taħt dan l-Att bħala kunfidenzjali u tali informazzjoni ma għandhiex tiġi żvelata kemm-il darba tali żvelar ma jkunx meħtieġ matul xi prosekuzzjoni jew azzjoni għal rimedju.

(9) Is-servizzi provduti mill-Kummissjoni skont dan l-artikolu għandhom jiġu pprovduti bla ħlas.

Ilmenti
sottomessi minn
persuni li jkunu
miżmuma
f'kustodja.

30. (1) Minkejja kwalunkwe dispożizzjoni f'xi liġi oħra, kwalunkwe ilment miktub minn persuna li tkun qiegħda tinzamm f'kustodja, għandu minnufih jitwassal, mhux miftuħ u permezz ta' mezzi siguri li jiżguraw il-kunfidenzjalità u l-protezzjoni kontra aċċess mhux awtorizzat, lill-Kummissarju mill-persuna li f'dak il-waqt ikollha responsabbiltà tal-post fejn l-ilmentatur ikun qiegħed jinżamm.

(2) Kwalunkwe ittra li tinkiteb mill-Kummissarju lill-persuna li tkun miżmuma f'kustodja għandha titwassal minnufih, mhux miftuħa u permezz ta' mezzi siguri li jiżguraw il-kunfidenzjalità u l-protezzjoni kontra aċċess mhux awtorizzat, lil tali persuna, mill-persuna li f'dak il-waqt tkun responsabbli għal dak il-post fejn l-ilmentatur ikun qiegħed jinżamm.

31. (1) Minkejja kwalunkwe dispożizzjoni f'xi liġi oħra, kwalunkwe ilment li jinkiteb minn pazjent f'xi faċilità liċenzjata għas-saħħa mentali skont l-Att dwar is-Saħħa Mentali, indirizzat lill-Kummissarju, għandu minnufih jitwassal, mhux miftuħ u permezz ta' mezzi siguri li jiżguraw il-kunfidenzjalità u l-protezzjoni kontra aċċess mhux awtorizzat, lill-Kummissarju mill-persuna li f'dak il-waqt ikollha r-responsabbiltà tal-faċilità fejn l-ilmentatur ikun pazjent.

Ilmenti sottomessi minn pazjenti f'faċilitajiet liċenzjati għas-saħħa mentali. Kap. 525.

(2) Kwalunkwe ittra li tinkiteb mill-Kummissarju lill-pazjent kif deskritt għandha titwassal minnufih, mhux miftuħa u permezz ta' mezzi siguri li jiżguraw il-kunfidenzjalità u l-protezzjoni kontra aċċess mhux awtorizzat, lill-Kummissarju, lil dak il-pazjent, mill-persuna li f'dak il-waqt tkun responsabbli għal dik il-faċilità.

32. (1) Minkejja kwalunkwe dispożizzjoni f'xi liġi oħra, kwalunkwe ilment li jinkiteb minn persuna f'xi faċilità ġerjatrika skont l-Att dwar l-Awtorità tal-Istandards għall-Persuni Anzjani, indirizzat lill-Kummissarju, għandu minnufih jitwassal, mhux miftuħ u permezz ta' mezzi siguri li jiżguraw il-kunfidenzjalità u l-protezzjoni kontra aċċess mhux awtorizzat, lill-Kummissarju mill-persuna li f'dak il-waqt ikollha r-responsabbiltà tal-faċilità fejn l-ilmentatur ikun qed joqgħod.

Ilmenti sottomessi minn persuni f'faċilitajiet ġerjatriki. Kap. 640.

(2) Kwalunkwe ittra li tinkiteb mill-Kummissarju lill-persuna kif deskritt għandha titwassal minnufih, mhux miftuħa u permezz ta' mezzi siguri li jiżguraw il-kunfidenzjalità u l-protezzjoni kontra aċċess mhux awtorizzat, lill-Kummissarju lil dik il-persuna, mill-persuna li f'dak il-waqt tkun responsabbli għal dik il-faċilità.

33. (1) Meta tinbeda investigazzjoni fl-eżerċizzju tal-funzjonijiet imsemmija bil-paragrafi (v) u (w) tas-subartikolu (1) tal-artikolu 28, il-Kummissarju bl-assistenza tal-Kummissjoni għandu, jinnotifika lill-partijiet involuti kollha b'ittra rreġistrata li huwa ser jiftaħ investigazzjoni.

Avviż ta' bidu ta' investigazzjoni u talba għal rapport.

(2) Fl-avviż ta' bidu ta' investigazzjoni mogħti lill-persuna li hija allegatament responsabbli ta' ksur tad-drittijiet tal-bniedem jew tad-dritt għal trattament ugwali u n-nondiskriminazzjoni, il-Kummissarju għandu jinforma lil tali persuna bl-allegazzjonijiet magħmula fil-konfront tagħha u l-Kummissarju għandu d-dritt li jitlob lil tali persuna sabiex ttipprovi, fi żmien għaxart (10) ijiem, rapport dwar l-allegazzjonijiet magħmula kontra tagħha:

Iżda l-Kummissarju għandu jkollu d-dritt jibda u jkompli, l-investigazzjoni kemm jekk ir-rapport jiġi sottomess mill-persuna hekk mitluba fiż-żmien stipulat u kif ukoll xort'oħra.

C 50

L-oneru tal-prova.

34. (1) Fi kwalunkwe proċeduri quddiem il-Kummissjoni li jikkonċernaw id-dritt għat-trattament ugwali u nondiskriminazzjoni, għandu jkun suffiċjenti li l-ilmentatur jistabbilixxi dawk il-fatti li minnhom jista' jiġi preżunt illi d-diskriminazzjoni allegata tkun seħħet, u għandha sussegwentement tkun ir-responsabbiltà tal-intimat li jipprova li ma kienx hemm ksur tad-dritt għat-trattament ugwali u nondiskriminazzjoni jew li tali att kien ġustifikat skont il-liġi applikabbli.

Kap. 12.

(2) Bla ħsara għad-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, fi kwalunkwe proċeduri msemmija fis-subartikolu (1), diskriminazzjoni indiretta tista' tiġi ppruvata permezz ta' kwalunkwe tip ta' prova, inkluż provi indizjarji u statistiċi bbażati fuq prinċipji attwarjali, diment li tali evidenza tkun univokali.

Informazzjoni meħtieġa għall-investigazzjoni.

35. (1) Il-Kummissarju, bl-assistenza tal-Kummissjoni, jista' jitlob mingħand kwalunkwe persuna kwalunkwe informazzjoni, inkluża data personali, li jqis neċessarja sabiex titwettaq l-investigazzjoni.

(2) Il-Kummissarju jista', permezz ta' avviż bil-miktub mibgħut b'posta reġistrata u bl-assistenza tal-Kummissjoni, jitlob lil kwalunkwe persuna:

(a) sabiex tipprovdi kwalunkwe informazzjoni speċifikata fl-avviż fiż-żmien hemm indikat; u

(b) sabiex tattendi u tagħti evidenza *viva voce* dwar il-każ kif indikat fl-avviż u sabiex tipproduċi d-dokumenti kollha li huma fil-pussess jew fil-kontroll tagħha li jirrigwardaw kwalunkwe tali kwistjoni f'laqgħa skedata għal tali għan:

Iżda fl-istess avviż, il-Kummissarju għandu jinkludi twissija li, bla ħsara għall-provisos tas-subartikolu (4), jekk persuna tirrifjuta jew mingħajr raġuni suffiċjenti tonqos milli tipprovdi l-informazzjoni, tipproduċi d-dokumenti jew milli tattendi fil-ħin u fil-post imsemmija fl-avviż, jew tirrifjuta mingħajr raġuni suffiċjenti li twieġeb jew li twieġeb bis-šhiħ u b'mod sodisfaċenti fil-qies ta' kemm taf u tifhem kull mistoqsija li ssirilha mill-Kummissarju, għandha tkun haġta ta' reat skont is-subartikolu (4).

(3) Il-Kummissarju għandu jkollu s-setgħa li jharrek ix-xieħda, jagħti l-ġurament lil kwalunkwe xhud jew persuna involuti fl-investigazzjoni, u jeħtieġhom li jixhdu.

(4) Kwalunkwe persuna mharrka skont is-subartikolu (3) li

tirrifjuta jew mingħajr raġuni suffiċjenti tonqos milli tattendi fil-ħin u fil-post imsemmija fit-taħrika, jew tirrifjuta mingħajr raġuni suffiċjenti li twieġeb jew li twieġeb bis-sħiħ u b'mod sodisfaċenti fil-qies ta' kemm taf u tifhem il-mistoqsijiet kollha li jsirulha mill-Kummissarju, jew li tirrifjuta jew tonqos mingħajr raġuni suffiċjenti li tipproduċi xi dokument li l-Kummissarju ikun irrikjeda li tipproduċi, tkun hatja ta' reat u għandha tehel meta tinsab hatja, multa li ma teċċedix elf euro (€1,000) jew prigunerija għal terminu li ma jeċċedix tliet (3) xhur, jew għal dik il-multa u prigunerija flimkien:

Iżda persuna ma għandhiex tkun obbligata tagħti informazzjoni jew tipproduċi dokumenti mitluba fl-avviż jekk dik il-persuna tkun meqjusa eżenti milli tipprovdi tali informazzjoni jew li tipproduċi dak id-dokument quddiem qorti fi proċeduri ċivili:

Iżda wkoll l-ebda persuna li tkun ġiet mitluba tipprovdi kwalunkwe informazzjoni jew tipproduċi kwalunkwe dokument skont dan l-artikolu ma tista' tingieghel twieġeb għal xi domanda li għandha mnejn tesponiha għal xi prosekuzzjoni kriminali.

36. (1) Meta l-investigazzjoni ma tkunx għadha ġiet konkluziva, f'każijiet ta' urġenza, minħabba r-riskju ta' ħsara gravi u rreparabbli lil kwalunkwe persuna jew grupp ta' persuni, il-Kummissarju jista', fuq inizzjattiva tiegħu stess jew fuq talba ta' kwalunkwe waħda mill-partijiet, jirrakkomanda li jittieħdu miżuri interim neċessarji u xierqa għall-prevenzjoni ta' tali ħsara. Miżuri interim.

(2) Kwalunkwe rakkomandazzjoni magħmula mill-Kummissarju skont dan l-artikolu ma torbotx lill-partijiet:

Iżda bla ħsara għad-dispożizzjonijiet tal-provisos tas-subartikolu (4) tal-artikolu 35, il-persuna li issirilha r-rakkomandazzjoni skont dan l-artikolu għandha, fiż-żmien stipulat fir-rakkomandazzjoni, tipprovdi lill-Kummissarju kwalunkwe informazzjoni li tkun meħtieġa sabiex il-Kummissarju jiddetermina jekk ir-rakkomandazzjoni tiegħu ġietx implimentata jew xort'oħra:

Iżda wkoll jekk il-persuna li ssirilha r-rakkomandazzjoni skont dan l-artikolu, tonqos milli tipprovdi tali informazzjoni lill-Kummissarju fiż-żmien stipulat fir-rakkomandazzjoni, għandha tkun hatja ta' reat u għandha tehel meta tinsab hatja, il-piena stabbilita fis-subartikolu (4) tal-artikolu 35.

37. (1) Hekk kif itemm l-investigazzjoni tiegħu, il-Kummissarju għandu johroġ l-opinjoni tiegħu bil-miktub: Azzjoni fi tmiem ta' investigazzjoni.

Iżda l-Kummissarju għandu jippubblika l-opinjoni tiegħu, li tkun tinkludi deskrizzjoni tal-fatti, il-ksur suspettat tad-drittijiet tal-

bniedem jew tad-dritt għal trattament ugwali u n-nondiskriminazzjoni, il-konklużjonijiet u r-rakkomandazzjonijiet tiegħu:

Iżda wkoll qabel tali pubblikazzjoni, kull data personali għandha tiġi anonimizzata:

Iżda wkoll minkejja l-isforzi kollha magħmula sabiex l-opinjoni tiġi anonimizzata, fil-każ li persuna tibqa' identifikabbli, il-Kummissarju jista' jiddeċiedi li jirrifjuta l-pubblikazzjoni ta' tali deċiżjoni.

(2) Meta fi tmiem ta' investigazzjoni l-Kummissarju jikkonkludi li l-ksur jikkostitwixxi reat, il-Kummissarju wara li jikkonsulta mal-vittima, jista' jressaq rapport lill-Kummissarju tal-Pulizija sabiex jittiehdu kwalunkwe passi neċessarji.

(3) Il-Kummissarju għandu jinterpella lill-persuna responsabbli għal ksur sabiex minnufih tirrimedja s-sitwazzjoni u tissottometti, skont il-każ, lill-Kummissarju rapport dwar l-implementazzjoni tar-rakkomandazzjonijiet tiegħu fl-opinjoni tiegħu fil-perjodu speċifikat mill-Kummissarju f'dik l-opinjoni.

(4) L-opinjoni tal-Kummissarju ma torbotx lill-partijiet:

Iżda bla ħsara għad-dispożizzjonijiet tal-provisos tas-subartikolu (4) tal-artikolu 35, il-persuna responsabbli għal ksur għandha, fil-perjodu stipulat fl-opinjoni, tipprovdi lill-Kummissarju kwalunkwe informazzjoni li tkun meħtieġa sabiex il-Kummissarju jiddetermina jekk ir-rakkomandazzjonijiet tiegħu ġewx implimentati jew xort'oħra:

Iżda wkoll jekk il-persuna responsabbli għal ksur tonqos milli tipprovdi tali informazzjoni fil-perjodu stipulat fl-opinjoni, għandha tkun ħatja ta' reat u għandha tehel meta tinsab ħatja il-piena stabbilita fis-subartikolu (4) tal-artikolu 35.

Irtirar tal-ilment.

38. (1) Investigazzjoni mibdija wara li jkun ġie riċevut ilment, għandha titwaqqaf malli dak l-ilment jiġi rtirat bil-miktub:

Iżda dan ma għandux jipprojbixxi lill-Kummissarju, bl-assistenza tal-Kummissjoni, milli jibda investigazzjoni ġenerali fuq il-bażi ta' kwalunkwe informazzjoni miġbura waqt it-twettiq ta' tali investigazzjoni mibdija abbażi ta' tali ilment, jekk il-Kummissarju jikkunsidra li investigazzjoni ġenerali tkun ta' interess pubbliku jew taffettwa settur jew grupp partikolari tas-soċjetà.

(2) Meta investigazzjoni fuq ilment titwaqqaf skont is-subartikolu (1), il-Kummissarju għandu jinforma bil-miktub lill-ilmentatur u lill-

persuna li kontriha jkun indirizzat l-ilment li l-investigazzjoni twaqqfet.

39. Meta l-Kummissjarju jagħmilha ta' medjatur bejn il-partijiet skont l-artikolu 29(7), bil-għan li tiġi riżolta l-kwistjoni u l-partijiet jaqblu li l-ftehim bil-miktub li jirriżulta minn medjazzjoni għandu jiġi eżegwit skont l-artikolu 17B tal-Att dwar il-Medjazzjoni, u l-persuna li kontra tagħha jkun sar l-ilment, jew l-ilmentatur, tonqos milli jaderixxu mal-ftehim tal-medjazzjoni, il-Kummissjarju jista' jagħixxi f'isem il-persuna li qiegħda tiġi preġudikata bin-nuqqas ta' aderenza u jitlob lill-Qorti kompetenti sabiex tordna lill-persuna li qed tonqos milli taderixxi mat-termini tal-imsemmi ftehim bil-miktub sabiex tiegħu kwalunkwe azzjoni rimedjali, hekk kif il-Qorti thoss li hu xieraq tordna:

Infurzar ta' ftehim bil-miktub.

Kap. 474.

Iżda l-kunsens bil-miktub tal-persuna li qiegħda tiġi preġudikata bin-nuqqas ta' aderenza għandu jkun anness mar-rikors ippreżentat mill-Kummissjarju:

Iżda wkoll is-setgħa tal-Kummissjarju skont dan l-artikolu ma għandiex tippreġudika kwalunkwe dritt jew rimedju mogħtija lill-partijiet skont kwalunkwe liġi oħra.

40. (1) Il-Kummissjoni għandha, hekk kif ikun prattikabbli wara kull sena kalendarja, iżda fi kwalunkwe każ mhux aktar tard mill-aħħar ta' Marzu tas-sena li tiġi minnufih wara, tippreżenta lill-Ispeaker rapport tal-attivitajiet tagħha matul dik is-sena, liema rapport hawn aktar 'il quddiem f'dan l-artikolu jissejjaħ bhala r-"rapport annwali".

Rapport annwali.

(2) Ir-rapport annwali għandu jinkludi fih rapport ġenerali tal-iżviluppi u l-attivitajiet tal-Kummissjoni matul il-perjodu relatata miegħu, inkluż il-baġit, persunal u rapporti finanzjarji, fir-rigward ta' dawk il-kwistjonijiet li jaqgħu taħt il-funzjonijiet tal-Kummissjoni u għandu wkoll jinkludi pjan ta' ħidma fuq il-prijoritajiet u l-attivitajiet prospettivi, kif ukoll rapport dwar rakkomandazzjonijiet, pariri u inizjattivi oħra mwettqa mill-Kummissjoni fit-tisħiħ tal-funzjonijiet tagħha sabiex tippromwovi u tipproteġi d-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni u l-azzjonijiet li ttiegħdu fuq l-imsemmija rakkomandazzjonijiet, pariri u inizjattivi matul il-perjodu li għalih jirreferi r-rapport.

(3) Il-Kummissjoni għandha tiġbor data dwar l-attivitajiet tagħha u għandu jkollha aċċess għal statistika relatata mad-drittijiet tal-bniedem u d-dritt għal trattament ugwali u n-nondiskriminazzjoni sabiex tipproduċi r-rapport annwali:

Iżda d-data miġbura mill-Kummissjoni għandha tiġi diżaggregata skont il-karatteristiċi protetti u l-oqsma tal-ħajja li fihom

tapplika l-protezzjoni mid-diskriminazzjoni, bħal fl-impjeg u fl-edukazzjoni, inkluż dawk koperti mid-Direttivi 2006/54/KE, 2010/41/UE, 79/7/KEE, 2000/43/KE, 2000/78/KE u 2004/113/KE:

Iżda wkoll kwalunkwe data personali miġbura għandha tigi anonimizzata jew, fejn dak ma jkunx possibbli, psewdonimizzata.

(4) Il-Kummissjoni għandha tikkoordina l-ġbir ta' data u tagħmel rakkomandazzjonijiet fuq liema data għandha tingabar relatata mad-drittijiet u l-obbligi naxxenti minn dan l-Att, mill-entitajiet pubbliċi u privati inklużi awtoritajiet pubbliċi, imsieħba soċjali, kumpaniji u s-soċjetà ċivili.

Pubblikazzjonijiet.

41. Il-Kummissjoni tista', minn żmien għal żmien, fl-interess pubbliku tippubblika rapporti relatati generalment mal-eżerċizzju tal-funzjonijiet tagħha taht dan l-Att kif ukoll sommarji ta' każijiet li tkun inghatat opinjoni mill-Kummissarju fuqhom u li tħoss li huma ta' relevanza partikolari. Tali rapporti jistgħu jiġu ppubblikati kemm jekk il-kwistjonijiet trattati fir-rapport ikunu jiffirmaw parti mir-rapport annwali u kif ukoll xort'oħra.

Applikabbiltà tal-Att dwar ir-Responsabbiltà ta' persuni li jokkupaw Kariga Pubblika u ta' Entitajiet Pubbliċi. Kap. 652.

42. L-Att dwar ir-Responsabbiltà ta' persuni li jokkupaw Kariga Pubblika u ta' Entitajiet Pubbliċi għandu japplika għall-Kummissarju, il-membri tal-Kummissjoni, id-Direttur Eżekuttiv u l-uffiċjali tal-Kummissjoni.

Kwistjonijiet mhux soġġetti għal proċeduri.

43. Il-kwistjonijiet li ġejjin ma għandhomx ikunu soġġetti għal proċeduri quddiem il-Kummissarju:

(a) kwalunkwe kwistjoni ċċertifikata mill-Prim Ministru bħala waħda li tolqot is-sigurtà interna jew esterna ta' Malta;

(b) kwalunkwe azzjoni meħuda fi kwistjonijiet ċċertifikati mill-Ministru responsabbli għall-affarijiet barranin bħala li jaffettwaw relazzjonijiet jew negozjati bejn il-Gvern u kwalunkwe Gvern ieħor jew kwalunkwe organizzazzjoni internazzjonali ta' Stati jew Gvernijiet;

Kap. 276.

(ċ) kwalunkwe azzjoni meħuda mill-Ministru responsabbli għall-ġustizzja taht l-Att dwar l-Estradizzjoni; u

Kap. 9.

(d) l-eżerċizzju tas-setgħa tal-Prim Ministru taht l-artikolu 515 tal-Kodiċi Kriminali.

TAQSIMA V
DMIR TA' UGWALJANZA

44. (1) L-amministrazzjoni pubblika, fl-eżerċizzju tal-funzjonijiet tagħha, għandha tiegħu kont xieraq tal-bżonn li: Dmir ta' Ugwaljanza.

(a) telimina d-diskriminazzjoni;

(b) tippromwovi l-ugwaljanza fl-opportunitajiet fost persuni li, minhabba karatteristika protetta, jew konkorenza ta' karatteristiċi protetti, jinsabu f'riskju ta' diskriminazzjoni;

(c) tassicura l-integrazzjoni tal-ugwaljanza waqt il-provvista ta' servizzi, u fl-ifformular u l-implimentazzjoni ta' liġijiet, regolamenti, dispożizzjonijiet amministrattivi, politiki u attivitajiet fl-oqsma kollha;

(d) timplimenta miżuri f'konformità mal-kunċett ta' akkomodazzjoni raġonevoli u tippromwovi miżuri f'konformità mal-kunċett tad-disinn universali; u

(e) trawwem relazzjonijiet tajbin bejn persuni, indipendentement mill-karatteristiċi protetti tagħhom, billi debitament tingħata importanza b'mod partikolari għal bżonn li jiġi indirizzat il-preġudizzju u tippromwovi t-trattament ugwali.

(2) Il-Kummissarju għandu jkollu d-dritt li jitlob u jingħata informazzjoni mill-amministrazzjoni pubblika dwar l-implimentazzjoni tad-dmir tal-ugwaljanza skont is-subartikolu (1):

Iżda jekk l-amministrazzjoni pubblika tonqos milli taderixxi mat-talba tal-Kummissarju fiż-żmien stipulat, il-Kummissarju jista', fid-diskrezzjoni tiegħu, jippreżenta rapport flimkien ma kwalunkwe rakkomandazzjonijiet li jqis xierqa lill-Prim Ministru u lill-Ministru, u jista' sussegwentement jagħmel tali rapport lill-Kamra li jidhirli li jkun xieraq.

(3) L-amministrazzjoni pubblika għandha:

(a) tikkrea u tadotta, fi żmien sena (1) mid-dhul fis-seħħ ta' dan l-Att, Pjan ta' Azzjoni li jinkludi politiki effettivi, miżurabbli, komprensivi u koordinati, li jinkludu l-miżuri rilevanti kollha sabiex jippromwovu l-ugwaljanza u l-protezzjoni tad-drittijiet tal-bniedem;

(b) tiżgura l-implimentazzjoni tal-imsemmi Pjan ta' Azzjoni permezz ta' kooperazzjoni effettiva bejn il-Ministeri, Kummissjonijiet, aġenziji, awtoritajiet, istituzzjonijiet,

organizzazzjonijiet, soċjetà ċivili u xi korpi rilevanti oħra;

(ċ) talloka riżorsi finanzjarji u umani xierqa għall-implimentazzjoni adegwata tal-imsemmi Pjan ta' Azzjoni, inkluż dawk l-azzjonijiet kollaborattivi imwettqa minn organizzazzjonijiet mhux governattivi, aġenziji u soċjetà ċivili;

(d) tirrevedi l-Pjan ta' Azzjoni perjodikament, u millanqas darba kull ħames (5) snin; u

(e) tippubblika rapport, mill-anqas darba kull ħames (5) snin, li jipprovdi dettalji dwar il-progress u l-istat tal-Pjan ta' Azzjoni.

(4) Persuna li mhijiex awtorità pubblika iżda li teżerċita funzjonijiet pubbliċi għandha, fl-eżerċizzju ta' dawn il-funzjonijiet, tagħti d-debita importanza għall-kwistjonijiet imsemmija fis-subartikolu (1).

(5) Meta tqis il-bżonn li tavvanza l-ugwaljanza fl-opportunitajiet għall-persuni kollha, l-amministrazzjoni pubblika għandha:

(a) tneħhi żvantaġġi mgarrba minn persuni relatati ma' waħda jew aktar mill-karatteristiċi protetti;

(b) tieħu passi sabiex tissodisfa l-bżonnijiet ta' persuni li għandhom karatteristika protetta li jkunu żvantaġġati sakemm dawk il-miżuri ikunu implimentati; u

(ċ) timplimenta miżuri sabiex jippermettu l-partecipazzjoni fil-ħajja pubblika jew fi kwalunkwe attività oħra ta' persuni li jaqsmu karatteristika protetta meta l-partecipazzjoni ta' dawn il-persuni hija baxxa b'mod sproporzjonat.

(6) Il-miżuri neċessarji sabiex jissodisfaw il-ħtiġijiet ta' persuni b'diżabilità għandhom jinkludu, b'mod partikolari, miżuri li jjeħdu inkonsiderazzjoni l-bżonnijiet speċifiċi ta' tali persuni.

(7) Kwalunkwe azzjoni neċessarja għall-konformità mal-obbligi f'dan l-artikolu, inklużi miżuri ta' azzjoni pożittiva, ma għandhiex tammonta għal diskriminazzjoni.

Hatriet għal korpi mahtura ufficjalment.

45. (1) B'kunsiderazzjoni għall-ħtieġa li tiġi avvanzata l-ugwaljanza fl-opportunitajiet għall-persuni kollha, l-amministrazzjoni pubblika għandha tieħu l-azzjonijiet pożittivi neċessarji, inkluż li kemm jista' jkun tiżgura illi mill-anqas erbgħin fil-mija (40%) tal-hatriet magħmula għal korpi mahtura ufficjalment ikunu nisa, u mill-

anqas l-erbghin fil-mija (40%) l-oħra ikunu rġiel:

Iżda fil-bqija tal-ħatriet, l-amministrazzjoni pubblika għandha, fejn hu possibbli, tikkunsidra r-rappreżentanza ta' generi mhux binarji:

Iżda wkoll dan is-subartikolu għandu japplika biss għal ħatriet magħmula wara d-dhul fis-seħħ ta' dan l-Att.

(2) Għall-finijiet ta' dan l-artikolu, il-Kummissarju għandu jkollu d-dritt li jitlob u jingħata informazzjoni mill-amministrazzjoni pubblika dwar korpi maħtura ufficjalment:

Iżda jekk l-amministrazzjoni pubblika tonqos milli taderixxi mat-talba tal-Kummissarju fiż-żmien stipulat, il-Kummissarju jista', fid-diskrezzjoni tiegħu, jippreżenta rapport flimkien ma kwalunkwe rakkomandazzjonijiet li jqis xierqa lill-Prim Ministru u lill-Ministru, u jista' sussegwentement jippreżenta dak ir-rapport lill-Kamra kif jidhirlu xieraq.

(3) Wara l-ewwel għaxar (10) snin mid-dhul fis-seħħ ta' dan l-Att, il-Kummissarju għandu jevalwa s-sitwazzjoni ġenerali tal-bilanċ ta' rappreżentazzjoni tal-irġiel u n-nisa fis-soċjetà Maltija, u jagħti l-opinjoni infurmata tiegħu lill-Gvern dwar in-neċessità taż-żamma ta' dan l-artikolu:

Iżda sussegwentement, il-Kummissarju għandu jwettaq dan l-eżerċizzju kull hames (5) snin, skont il-bżonn.

TAQSIMA VI IMPJIEG TA' PERSUNAL U RIŻORSI

46. (1) Il-Kummissjoni għandha taħtar Direttur Eżekuttiv li għandu jaġixxi skont tali politika stabbilita mill-Kummissjoni u skont tali struzzjonijiet li jistgħu jingħataw mill-Kummissarju. Direttur Eżekuttiv.

(2) Id-Direttur Eżekuttiv għandu jibqa' fil-kariga taħt kuntratt ta' servizz bil-miktub għal tali perjodu kif speċifikat fil-kuntratt u soġġett għal dawk it-termini u kondizzjonijiet kif speċifikati, inklużi dawk relatati ma' remunerazzjonijiet u allowance, kif jista' jiġi determinat mill-Kummissjoni.

(3) Id-Direttur Eżekuttiv ma għandux ikun membru tal-Kummissjoni, kemm-il darba ma jiġix dirett xort'oħra mill-Kummissarju, għandu jattendi għal-laqgħat tal-Kummissjoni *ex officio*, u għandu jkollu d-dritt li jitkellem u jagħti parir f'dawn il-laqgħat.

(4) Id-Direttur Eżekuttiv ma għandux ikun uffiċjal pubbliku ssekondat jew assenjat mill-Gvern.

(5) Id-Direttur Eżekuttiv ma għandux ikollu xi kariga oħra jew jikkupa xi pożizzjoni oħra li fir-rigward tagħha jirċievi pagamenti, kif lanqas ma għandu jwettaq negozju jew ikollu kwalunkwe rwol ieħor li jikkostitwixxi kunflitt ta' interess mingħajr il-kunsens tal-Kummissjoni.

(6) Id-Direttur Eżekuttiv jista' jitneħħa mill-kariga mill-Kummissjoni għal raġunijiet iddikjarati u skont id-diskrezzjoni tagħha:

Iżda din it-terminazzjoni għandu jkollha s-sostenn tal-voti ta' mhux anqas minn żewġ terzi (2/3) tal-membri kollha tal-Kummissjoni.

(7) Id-Direttur Eżekuttiv jista', f'kwalunkwe waqt, jirriżenja mill-kariga tiegħu b'avviż bil-miktub lill-Kummissjoni.

Funzjonijiet tad-Direttur Eżekuttiv.

47. (1) Id-Direttur Eżekuttiv għandu jwettaq, jiġġestixxi u jikkontrolla b'mod ġenerali l-amministrazzjoni tal-Kummissjoni u jwettaq tali funzjonijiet oħra kif jistgħu jiġu stabbiliti mill-Kummissjoni.

(2) Id-Direttur Eżekuttiv għandu jwettaq il-funzjonijiet tiegħu soġġett għal tali politiki kif stabbiliti mill-Kummissjoni u għandu jkun responsabbli lejn il-Kummissjoni għat-tmexxija effiċjenti u effettiva tal-Kummissjoni u għat-twettiq xieraq tal-funzjonijiet tiegħu.

(3) Id-Direttur Eżekuttiv għandu jipprovdi lill-Kummissjoni tali informazzjoni marbuta mat-twettiq tal-funzjonijiet tiegħu, inkluż informazzjoni regolari fir-rigward tat-twettiq ta' dawk il-funzjonijiet sa fejn dawn ikunu marbuta mal-affarijiet finanzjarji u mal-baġit tal-Kummissjoni, kif il-Kummissjoni tista' teħtieġ.

(4) Id-Direttur Eżekuttiv għandu jkun responsabbli sabiex japprova l-ispejjeż neċessarji għal bini adegwat, salarji, għamara, materjali u attivitajiet amministrattivi li huma meħtieġa għat-twettiq tal-funzjonijiet, is-setgħat u d-dmirijiet tal-Kummissjoni taħt dan l-Att.

(5) Id-Direttur Eżekuttiv jista' jagħmel proposti lill-Kummissjoni fuq kwalunkwe kwistjoni relatata mal-funzjonijiet tagħha, inkluż kwalunkwe rakkomandazzjonijiet ta' politika meħtieġa.

(6) Il-Kummissjoni tista' taħtar membru tal-persunal tal-Kummissjoni sabiex temporanjament iwettaq il-funzjonijiet ta' Direttur Eżekuttiv fin-nuqqas tad-Direttur Eżekuttiv jew fejn il-kariga ta' Direttur Eżekuttiv tkun battala, u membru hekk maħtur għandu, f'tali nuqqas jew malli tali kariga ssir battala, iwettaq dawk il-

funzjonijiet.

48. (1) Il-Kummissjoni tista' tahtar tali uffiċjali kif tqis li jkunu mehtieġa sabiex twettaq b'mod sħih il-funzjonijiet u d-dmirijiet tagħha taht dan il-Att:

Uffiċjali tal-Kummissjoni.

Izda l-għażla tal-uffiċjali tal-Kummissjoni għandha kemm jista' jkun tkun magħmula minn rappreżentanza bilanċjata, wiesgħa, u pluralista tas-soċjetà Maltija.

(2) Is-setgħa li jsiru ħatriet tinkludi l-approvazzjoni, bla ħsara għall-artikolu 49, għan-numru ta' persuni li jistgħu jiġu mahtura taht dan l-artikolu, kemm jekk b'mod ġenerali jew fir-rigward ta' kwalunkwe dmirijiet speċifiċi jew klassijiet ta' dmirijiet, kif ukoll is-salarji tagħhom u l-kondizzjonijiet tal-ħatra skont dan il-Att.

49. (1) Il-Prim Ministru jista', fuq talba tal-Kummissjoni, minn żmien għal żmien, jordna li uffiċjali pubbliċi għandhom jiġu assenjati sabiex jaqdu dmirijietom mal-Kummissjoni f'tali kapaċità u b'effett minn tali data li tista' tiġi speċifikata fl-ordni.

Uffiċjali pubbliċi assenjati sabiex jaqdu dmirijiet mal-Kummissjoni.

(2) Il-perjodu li matulu għandha tapplika ordni kif imsemmi qabel fir-rigward ta' kwalunkwe uffiċjali speċifikati fih għandu, kemm-il darba l-uffiċjali ma jirtirawx mis-servizz pubbliku, jew xort'oħra jieqfu milli jkunu uffiċjali pubbliċi f'data preċedenti, jew sakemm ma jkunx hemm data differenti speċifikata fl-ordni, isir effettiv mas-seħħ ta' kwalunkwe mill-avvenimenti li ġejjin jiġifieri:

(a) l-aċċettazzjoni minn tali uffiċjali pubbliċi ta' offerta għat-trasferiment tas-servizz ta', u impjeg permanenti mal-Kummissjoni magħmul skont is-subartikolu (8); jew

(b) ir-revoka mill-Prim Ministru ta' kwalunkwe ordni magħmula minnu taht dan l-artikolu dwar tali uffiċjali.

(3) Fejn ordni kif imsemmi qabel tiġi revokata mill-Prim Ministru fir-rigward ta' kwalunkwe uffiċjal, il-Prim Ministru jista', permezz ta' ordni ulterjuri, jassenja lil tali uffiċjal sabiex jaqdi dmirijietu mal-Kummissjoni f'tali kapaċità u b'effett minn tali data kif jista' jiġi speċifikat f'dik l-ordni ulterjuri, u d-dispożizzjonijiet tas-subartikolu (2) għandhom japplikaw għall-perjodu tat-terminu tal-imsemmija ordni ulterjuri fir-rigward ta' tali uffiċjal.

(4) Meta uffiċjal pubbliku jiġi assenjat sabiex jaqdi dmirijietu mal-Kummissjoni taht kwalunkwe dispożizzjoni ta' dan l-artikolu, tali uffiċjal għandu, matul iż-żmien li fih l-ordni tkun effettiva fir-rigward tiegħu, ikun taht l-awtorità amministrattiva u l-kontroll tal-Kummissjoni, izda huwa għandu għall-finijiet u effetti oħra jibqa', u

jitqies u jiġi ttrattat bħala uffiċjal pubbliku.

(5) Bla ħsara għall-ġeneralità ta' dak imsemmi qabel, uffiċjal pubbliku li jkun assenjat għal dmirijiet kif imsemmi qabel:

(a) ma għandux, matul iż-żmien li matulu tali uffiċjal ikun hekk assenjat:

(i) ikun prekluz milli japplika għal trasferiment f'xi dipartiment tal-Gvern skont it-termini u l-kondizzjonijiet tas-servizz marbuta mal-ħatra tiegħu mal-Gvern li jkollu fid-data meta jkun ġie hekk assenjat għal dmirijietu; jew

(ii) ikun hekk impjegat li r-remunerazzjoni u l-kondizzjonijiet tas-servizz tiegħu jkunu anqas favorevoli minn dawk li jkunu marbuta mal-ħatra tiegħu mal-Gvern miżmuma minnu fid-data meta jkun ġie assenjat għal dmirijietu kif imsemmi qabel, jew li kienu jkunu marbuta ma' tali ħatra, matul l-imsemmi perjodu, li kieku tali uffiċjal ma kienx ġie assenjat sabiex jaqdi dmirijietu mal-Kummissjoni; u

(b) għandu jkollu l-jedd li s-servizz tiegħu mal-Kummissjoni jiġi meqjus bħala servizz mal-Gvern għall-finijiet ta' kwalunkwe pensjoni, gratwità jew benefiċċju skont l-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema u ta' kwalunkwe dritt jew privileġġ ieħor li għalih kien ikun intitolat, u għandu jkun responsabbli għal kwalunkwe responsabbiltà li għalih kien ikun responsabbli, li kieku ma kienx għall-fatt li ġie assenjat sabiex iwettaq dmirijietu mal-Kummissjoni.

Kap. 93.
Kap. 58.

(6) Fejn issir applikazzjoni kif provdut fis-subartikolu (5)(a)(i), għandha tingħatalha l-istess konsiderazzjoni daqslikieku l-applikant ma ġiex assenjat sabiex jaqdi dmirijietu mal-Kummissjoni.

(7) Il-Kummissjoni għandha tħallas lill-Gvern tali kontribuzzjonijiet li jistgħu, minn żmien għal żmien, jiġu stabbiliti mill-Ministru responsabbli għall-finanzi fir-rigward tal-ispiza tal-pensjonijiet u gratwitajiet li jkun irċieva uffiċjal li jkun assenjat mal-Kummissjoni fit-tweqqif ta' dmirijietu, kif intqal qabel, għall-perjodu li matulu jkun hekk assenjat.

(8) Il-Kummissjoni tista' toffri lil kwalunkwe uffiċjal pubbliku assenjat sabiex jaqdi dmirijietu mal-Kummissjoni taħt is-subartikolu (2) impjieg permanenti mal-Kummissjoni b' remunerazzjoni u taħt it-termini u l-kondizzjonijiet speċifikati fl-offerta.

(9) Kull uffiċjal pubbliku li jaċċetta impjeg permanenti mal-Kummissjoni li jiġi offrut lilu bis-saħħa ta' dan l-artikolu għandu, għall-finijiet kollha minbarra dawk tal-Ordinanza dwar il-Pensjonijiet u tal-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, ma jibqax fis-servizz mal-Gvern u għandu jidhol fis-servizz mal-Kummissjoni b'effett mid-data tal-aċċettazzjoni tal-offerta, jew tali data oħra li tista' tiġi miftiehma bejnu u bejn il-Kummissjoni, u għall-finijiet tal-imsemmija Ordinanza u tal-imsemmi Att, servizz mal-Kummissjoni għandu jitqies li jkun servizz mal-Gvern:

Kap. 93.
Kap. 58.

Iżda għall-finijiet tal-Ordinanza dwar il-Pensjonijiet, id-dhul mill-pensjoni ta' tali uffiċjal meta huwa jirtira għandu jitqies bħala dhul mill-pensjoni pagabbli lil uffiċjal fis-servizz mal-Gvern fi grad u f'livelli inkrementali li jikkorrispondu għall-kariga u l-livell inkrementali li bih l-uffiċjal jirtira mill-Kummissjoni.

Kap. 93.

50. Il-Kummissjoni għandha ssegwi l-proċeduri kollha dwar akkwist kif regolati mir-Regolamenti dwar l-Akkwist Pubbliku jew kwalunkwe emenda għalihom.

Kuntratti ta' provvista, xoghlijiet jew servizzi.
L.S. 601.03.

TAQSIMA VII DISPOŻIZZJONIJIET FINANZJARJI

51. (1) Il-Kamra tad-Deputati għandha tiżgura li l-Kummissjoni jkollha fi kwalunkwe waqt baġit adegwat għat-twettiq xieraq tal-funzjonijiet tagħha.

Finanzi.

(2) Ir-remunerazzjoni u l-allowances pagabbli lill-Kummissarju u lill-membri kollha tal-Kummissjoni għandhom jiġu stabbiliti mill-Kamra:

Iżda tali remunerazzjoni u allowances ma għandhomx jitnaqqsu matul it-terminu tal-kariga tal-Kummissjoni:

Iżda wkoll il-Kummissarju għandu jikkupa l-kariga fuq bażi full-time, u l-Kummissarju u l-membri tal-Kummissjoni għandhom jingħataw remunerazzjoni suffiċjenti li tirrifletti l-livell ta' impenn u r-responsabbiltajiet mitluba minnhom taht dan l-Att.

(3) Mill-anqas tliet (3) xhur qabel it-tmiem ta' kull sena finanzjarja, il-Kummissjoni għandha tippreżenta lill-Kamra l-pjan finanzjarju u l-pjan ta' ħidma għas-sena finanzjarja li jkun imiss. Meta jiġi approvat mill-Kamra, tali pjan għandu jkun il-baġit approvat tal-Kummissjoni.

(4) Il-finanzi meħtieġa għar-remunerazzjoni tal-Kummissarju, tal-membri tal-Kummissjoni, għas-salarji tal-uffiċjali u tal-impjegati tagħha, u għall-ispejjeż l-oħra kollha tagħha u r-riżorsi għat-twettiq

tal-funzjonijiet u l-obbligi tagħha ma għandhomx jeċċedu l-ammont massimu indikat fil-baġit.

(5) Il-Kamra tad-Deputati ma għandhiex tnaqqas il-baġit approvat tal-Kummissjoni, sakemm ma jkunx previst fil-baġit nazzjonali għal dik is-sena tnaqqis generali għall-entitajiet simili kollha:

Iżda fejn tali tnaqqis huwa previst, dan ma għandux ikun oġġha mit-tnaqqis medju tal-entitajiet simili kollha f'dak il-baġit.

(6) Il-Kummissjoni għandha kemm jista' jkun, tutilizza l-fondi b'mod bilanċjat bejn il-mandati tagħha skont dan l-Att.

(7) Is-sena finanzjarja tal-Kummissjoni għandha tkun għal perjodu ta' tnax (12)-il xahar li jagħlaq fil-31 ta' Diċembru ta' kull sena kalendarja:

Iżda l-ewwel sena finanzjarja tal-Kummissjoni wara d-dhul fis-seħħ ta' dan l-Att għandha tibda mad-dhul fis-seħħ ta' dan l-Att u għandha tintemm fil-31 ta' Diċembru tas-sena sussegwenti.

Spejjeż tal-Kummissjoni.

52. Il-finanzi approvati mill-Kamra tad-Deputati għall-ispejjeż tal-Kummissjoni għandhom jittiehdu mill-Fond Konsolidat mingħajr l-ebda approprijazzjoni ulterjuri minbarra taht dan l-Att.

Kontijiet.

53. (1) Il-Kummissjoni għandha żżomm kontijiet xierqa tad-dhul u l-ħruġ tagħha u għandha tipprepara u tibgħat lill-Kamra tad-Deputati dikjarazzjonijiet ta' kontijiet dwar kull waħda mis-snin finanzjarji tagħha.

Kap. 601.

(2) Il-kontijiet tal-Kummissjoni għandhom jigu verifikati mill-Awditur Ġenerali u għandu japplika l-Att dwar il-Ġestjoni tal-Finanzi Pubbliċi.

TAQSIMA VIII MIXXELLANJI

Setgħa tal-Ministru li jagħmel regolamenti.

54. Il-Ministru jista' jagħmel regolamenti għat-twettiq aħjar tad-dispożizzjonijiet ta' dan l-Att u jirregola, generalment, l-ugwaljanza b'konformità mad-dispożizzjonijiet ta' dan l-Att.

Thassir u riżervi.
Kap. 456.
L.S. 456.01.
L.S. 456.02.
L.S. 456.03.
L.S. 456.04.

55. L-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa, ir-Regolamenti dwar Trattament Indaqs fl-Aċċess u l-Provvista ta' Oġġetti u Servizzi, ir-Regolamenti dwar il-Proċedura ta' Investigazzjoni, ir-Regolamenti dwar l-Eżerċitar tad-Drittijiet Konferiti fuq il-Haddiema (Moviment Liberu), u r-Regolamenti dwar il-Promozzjoni tal-Bilanċ bejn il-Ġeneri fost Diretturi ta' Kumpaniji Elenkati huma b'dan imħassra bla ħsara għal dak kollu li sar jew li naqas milli jsir tahtom.

56. (1) Wara d-dhul fis-sehħ ta' dan l-Att, għandu jkun hemm perjodu ta' tranżizzjoni li matulu l-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa mwaqqfa taht l-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa għandha tagħmel it-tranżizzjoni tagħha fil-Kummissjoni skont is-subartikolu (3).

Perjodu ta' tranżizzjoni.
Kap. 456.

(2) Bla ħsara għas-subartikolu (4), matul dan il-perjodu ta' tranżizzjoni, il-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa għandha tibqa' topera sakemm il-funzjonijiet tagħha jiġu trasferiti lill-Kummissjoni.

(3) Matul dan il-perjodu ta' tranżizzjoni, id-dispożizzjonijiet relattivi f'dan l-Att għandhom jidhlu fis-sehħ fl-ordni li ġej u f'dawk id-dati li l-Ministru jista' b'avviż skont l-artikolu 1(2) jistabbilixxi:

(a) il-ħatra tal-Kummissjoni;

(b) ir-reklutaġġ tad-Direttur Eżekuttiv u sussegwentement il-membri u l-persunal tal-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa, għandhom jiġu trasferiti lill-Kummissjoni, bl-eċċezzjoni tad-Direttur Eżekuttiv; u

(ċ) is-setgħat tal-Kummissjoni.

(4) Wara d-dhul fis-sehħ ta' dan l-Att, il-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa ma għandhiex taċċetta jew tinvestiga ilmenti ġodda skont l-artikolu 17 tal-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa:

Kap. 456.

Iżda l-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa għandha tkompli bl-investigazzjonijiet u tikkonkludi kwalunkwe investigazzjonijiet li jinsabu pendenti quddiemha f'dik id-data, u d-dispożizzjonijiet rilevanti tal-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa għandhom jibqgħu applikabbli għal tali investigazzjonijiet pendenti u għal kwalunkwe proċeduri legali istitwiti abbażi ta' dak l-Att, u d-dispożizzjonijiet ta' dan l-Att ma għandhomx japplikaw għal dawk l-investigazzjonijiet u proċeduri.

Kap. 456.

(5) Kwalunkwe referenza fil-liġi għall-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa għandha tinftiehem bħala referenza għall-Kummissjoni.

57. (1) Kull persuna, bl-eċċezzjoni tad-Direttur Eżekuttiv, li minnufih qabel id-dhul fis-sehħ ta' dan il-Att kienet impjegata tal-Kummissjoni Nazzjonali għall-Promozzjoni tal-Ugwaljanza għall-Irġiel u n-Nisa għandha, skont id-dispożizzjonijiet tal-artikolu

Trasferiment tal-persunal.

56(3)(b), għandha tkun impjegata tal-Kummissjoni.

(2) Il-haddiema msemmija fis-subartikolu (1) ma għandhomx ikunu soġġetti għal termini u kondizzjonijiet anqas favorevoli minn dawk it-termini u l-kondizzjonijiet ta' servizz relatati ma' remunerazzjoni li l-haddiema kellhom immedjatement qabel dik il-ġurnata:

Iżda kwalunkwe ftehim kollettiv negozjat ma' kwalunkwe trade union jew organizzazzjoni professjonali f'dan ir-rigward għandha tkompli tapplika.

TAQSIMA IX

Emendi Konsegwenzjali

Emendi
konsegwenzjali
għall-
Kostituzzjoni ta'
Malta.

58. Il-Kostituzzjoni ta' Malta għandha tiġi emendata kif ġej:

(a) minnufih wara l-artikolu 64A tagħha għandu jiġi miżjud l-artikolu ġdid li ġej:

"Il-Kummissjoni
Nazżjonali għad-
Drittijiet tal-
Bniedem u l-
Ugwaljanza.

64B. (1) Għandu jkun hemm Kummissjoni, magħrufa bħala l-Kummissjoni Nazżjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza, responsabbli lejn il-Parlament, u hija għandu jkollha l-funzjonijiet li tippromwovi u ttiproteġi d-drittijiet tal-bniedem u d-dritt għal trattament ugwali u nondiskriminazzjoni, b'imparzjalità u indipendenza.

(2) Il-mod tal-ħatra u t-terminu tal-kariga tal-Kummissarju u tal-membri tal-Kummissjoni Nazżjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza flimkien ma' kwalunkwe haġa oħra anċillari jew inċidentali għal dan jew li titqies meħtieġa jew spedjenti għat-twettiq tal-funzjonijiet imsemmija fis-subartikolu (1), għandha tkun regolata b'Att tal-Parlament.

(3) Il-Kummissarju u l-membri tal-Kummissjoni Nazżjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza ma għandhomx jitneħħew mill-kariga tagħhom ħlief mill-President tar-Repubblika li jaġixxi skont indirizz mill-Kamra, bis-sostenn tal-voti ta' mhux anqas minn żewġ terzi (2/3) tal-membri tagħha, fuq raġunijiet ippruvati ta' inkapaċità li jwettqu l-funzjonijiet tal-kariga tagħhom jew imġiba ħażina.";

(b) fl-Arranġament tal-Artikoli minnufih wara l-kliem "64A. Kariga ta' *Ombudsman*" għandhom jiġu miżjuda l-kliem "64B. Kummissjoni Nazżjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza";

(è) fil-paragrafu (b) tas-subartikolu (2) tal-artikolu 66 tagħha l-kliem "60, 61 u 64A" għandhom jiġu sostitwiti bil-kliem "60, 61, 64A u 64B".

59. L-Att dwar il-Konvenzjoni Ewropea għandu jiġi emendat kif ġej:

Emendi
konsegwenzjali
għall-Att dwar
il-Konvenzjoni
Ewropea.
Kap. 319.

(a) l-artikolu 2 tiegħu għandu jiġi emendat kif ġej:

(i) it-tifsira "Drittijiet tal-Bniedem u Libertajiet Fundamentali" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Drittijiet tal-Bniedem u Libertajiet Fundamentali" tfisser dawk id-drittijiet u libertajiet kif stabbiliti fl-Artikoli 2 sa 18 (inklużi) tal-Konvenzjoni u l-Artikoli 1 sa 3 (inklużi) tal-Ewwel Protokoll, l-Artikoli 1 sa 4 (inklużi) tar-Raba' Protokoll, l-Artikoli 1 u 2 tas-Sitt Protokoll u l-Artikoli 1 sa 5 (inklużi) tas-Seba' Protokoll, u Artikolu 1 tat-Tnax-il Protokoll li jinsabu mal-Konvenzjoni, liema artikoli qegħdin riprodotti fl-Ewwel Skeda;"

(ii) it-tifsira "Konvenzjoni" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Konvenzjoni" tfisser il-Konvenzjoni għall-Protezzjoni tad-Drittijiet tal-Bniedem u tal-Libertajiet Fundamentali ffirmata f'Ruma fl-4 ta' Novembru, 1950 u l-Ewwel, it-Tieni, t-Tielet, ir-Raba', l-Hames, is-Sitt, is-Seba' u t-Tnax Protokoll li hemm magħha ffirmati f'Parigi fl-20 ta' Marzu 1952, u fi Strasburgu fis-6 ta' Mejju 1963, 6 ta' Mejju 1963, 16 ta' Settembru 1963, 20 ta' Jannar 1966, 18 ta' April 1983 u 22 ta' Novembru 1984, u f'Ruma fl-4 ta' Novembru 2000, rispettivament;"

(b) l-artikolu 7 tiegħu għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Dispożizzjoni
tranżitorja.

7. L-ebda ksur tal-Artikoli 2 sa 18 (inklużi) tal-Konvenzjoni jew tal-Artikoli 1 sa 3 (inklużi) tal-Ewwel Protokoll li jsir qabel it-30 ta' April 1987 jew tal-Artikoli 1 sa 4 (inklużi) tar-Raba' Protokoll, l-Artikoli 1 u 2 tas-Sitt Protokoll jew tal-Artikoli 1 sa 5 (inklużi) tas-Seba' Protokoll li jsir qabel l-1 ta' April 2002, jew tal-Artikolu 1 tat-Tnax-il Protokoll li jsir qabel l-1 ta' April 2016 ma għandu jagħti lok għal azzjoni taht l-artikolu 4.";

(ċ) minnufih wara l-Artikolu 5 taħt l-intestatura "Artikoli 1 sa 5 tas-Seba' Protokoll li hemm mal-Konvenzjoni għall-Protezzjoni tad-Drittijiet tal-Bniedem u tal-Libertajiet Fondamentali." tal-Ewwel Skeda tiegħu għandha tiġi miżjuda l-intestatura u l-artikolu ġdid li ġej:

"Artikolu 1 tat-Tnax-il Protokoll tal-Konvenzjoni għall-Protezzjoni tad-Drittijiet tal-Bniedem u Libertajiet Fundamentali.

Artikolu 1 –
Projbizzjoni
generali ta'
diskriminazzjoni.

1. It-tgawdija ta' kwalunkwe dritt imniżżel fil-liġi għandha tiġi assigurata mingħajr diskriminazzjoni għal kwalunkwe raġuni bħalma huma s-sess, razza, kulur, lingwa, reliġjon, opinjoni politika jew opinjoni oħra, oriġini nazzjonali jew soċjali, assoċjazzjoni ma' minoranza nazzjonali, proprjetà, twelid jew status ieħor.

2. Hadd ma għandu jkun iddiskriminat minn kwalunkwe awtorità pubblika għal kull raġuni bħal dawk imsemmija fil-paragrafu 1."

Emenda
konsegwenzjali
għall-Att dwar
l-Ombudsman.
Kap. 385.

60. Fit-Taqsima A tal-Ewwel Skeda li tinsab mal-Att dwar l-Ombudsman, minnufih wara l-kliem "Il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja" għandhom jiġu miżjuda l-kliem "Il-Kummissjoni Nazzjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza."

**SKEDA
(artikolu 2)**

Lista Mhux Eżawrjenti ta' Liġijiet li fihom Dispożizzjonijiet dwar id-Dritt għal Trattament Ugwali u n-Nondiskriminazzjoni

Kostituzzjoni ta' Malta
Kap. 16 - Kodiċi Ċivili
L.S. 217.14 - Regolamenti dwar <i>Standards</i> Minimi għal Sanzjonijiet u Mizuri kontra Min Iħaddem lil Ċittadini minn Pajjiżi Terzi b'Residenza Illegali
Kap. 254 - Att dwar is-Servizzi Postali
L.S. 254.01 - Regolamenti dwar Servizz Postali (Ġenerali)
L.S. 260.03 - Regolamenti dwar il-Ħabs
Kap. 319 - Att dwar il-Konvenzjoni Ewropea
L.S. 327.02 - Regolamenti dwar Kodiċi ta' Etika u ta' Prattika għall-Għalliema

<p>Kap. 350 - Att dwar ix-Xandir</p> <p>L.S. 350.17 - Htigiet dwar Standards u Prattika dwar id-Dizabilità u l-Prezentazzjoni tagħha fix-Xandir</p> <p>L.S. 350.18 - Htigiet dwar Standards u Prattika dwar Wiri u s-Smigh ta' Programmi għall-Familja</p> <p>L.S. 350.26 - Htigiet dwar Standards u Prattika biex Tingieb 'il Quddiem l-Ugwaljanza Razzjali</p>
<p>Kap. 413 - Att dwar Opportunitajiet Indaqs għal Persuni b'Dizabilità</p>
<p>Kap. 452 - Att dwar l-Impiegi u r-Relazzjonijiet Industrijali</p> <p>L.S. 452.79 - Regolamenti dwar Impjegati <i>Part-time</i></p> <p>L.S. 452.81 - Regolamenti dwar Kuntratti ta' Servizz għal Terminu ta' Żmien Fiss</p> <p>L.S. 452.82 - Regolamenti dwar Impjegati Stazzjonati f'Malta</p> <p>L.S. 452.91 - Regolamenti dwar il-Harsien tal-Maternità (Impieg)</p> <p>L.S. 452.95 - Regolamenti dwar Trattament Ugwali fl-Impiegi</p> <p>L.S. 452.97 - Regolamenti li jestendu l-Applikabilità ta' Disposizzjonijiet dwar Impjegati <i>Part-Time</i> għal Servizz mal-Gvern</p> <p>L.S. 452.99 - Regolamenti li Jestendu l-Applikabilità ta' Disposizzjonijiet dwar Kuntratti ta' Servizz għal Terminu ta' Żmien Fiss għal Servizz mal-Gvern</p> <p>L.S. 452.100 - Regolamenti li Jestendu l-Applikabilità ta' Disposizzjonijiet dwar Trattament Ugwali fl-Impiegi għal Servizz mal-Gvern</p> <p>L.S. 452.102 - Regolamenti dwar l-Estensjoni ta' l-Applikabilità ta' Disposizzjonijiet dwar Dritt ta' <i>Leave</i> tal-Ġenituri u <i>Leave</i> Urgenti tal-Familja għal Servizz mal-Gvern</p> <p>L.S. 452.125 - Regolamenti dwar il-Bilanċ bejn ix-Xogħol u l-Hajja privata għall-Ġenituri u għall-Persuni li jindukraw</p> <p>L.S. 452.133 - Regolamenti dwar Haddiema Temporanji permezz ta' Aġenzija</p> <p>L.S. 452.172 - Regolamenti dwar Trasparenza u Rappurtar dwar Paga Ugwali</p>
<p>Kap. 455 - Att dwar l-Isports</p> <p>L.S. 455.13 - Regolamenti dwar l-<i>Anti-Doping</i></p>
<p>L.S. 460.15 - Ordni dwar Trattament Indaqs ta' Persuni</p> <p>L.S. 460.16 - Ordni dwar Trattament Indaqs fil-każ ta' Impjieg ta' Persuni li jimpjegaw lilhom infushom u l-Okkupazzjoni</p> <p>L.S. 460.17 - Ordni dwar il-Moviment Liberu ta' Ċittadini tal-Unjoni Ewropea u tal-Membri tal-Familji tagħhom</p>

L.S. 499.56 - Regolamenti dwar is-Servizzi ta' Ġarr ta' Passiġġieri
Kap. 525 - Att dwar is-Saħħa Mentali
Kap. 527 - Att dwar il-Protezzjoni ta' Informatur
Kap. 540 - Att dwar l-Identità tal-Ġeneru, l-Espressjoni tal-Ġeneru u l-Karatteristiċi tas-Sess
Kap. 567 - Att dwar l-Affermazzjoni tal-Orjentazzjoni Sesswali, l-Identità tal-Ġeneru u l-Espressjoni tal-Ġeneru
Kap. 581 - Att dwar il-Vjolenza Abbażi ta' Ġeneru u Vjolenza Domestika
L.S. 582.02 - Regolamenti dwar <i>Standards</i> Soċjali Regulatorji fuq Servizzi Residenzjali għal Persuni b'Diżabilità
L.S. 582.03 - Regolamenti dwar <i>Standards</i> Soċjali Regulatorji fuq Servizzi ta' <i>Respite</i> għal Persuni b'Diżabilità
L.S. 582.04 - Regolamenti dwar <i>Standards</i> Soċjali Regulatorji fuq Servizzi ta' Ċentri ta' Matul il-Jum għal Persuni b'Diżabilità
L.S. 582.09 - Regolamenti dwar <i>Standards</i> Soċjali Regulatorji għal Servizzi ta' Kura għal Anzjani b'Kundizzjonijiet Kroniċi u b'Dipendenza Għolja
L.S. 582.15 - Regolamenti dwar <i>Standards</i> Soċjali Regulatorji għal Servizzi Residenzjali għall-Anzjani
Kap. 627 - Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità
L.S. 627.03 - Regolamenti dwar Miżuri ta' Aċċessibilità (Att Ewropew dwar l-Aċċessibilità)

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Ligi huma li l-ewwel nett tiġi mwaqqfa għall-ewwel darba Kummissjoni Nazzjonali għad-Drittijiet tal-Bniedem u l-Ugwaljanza skont il-Prinċipji dwar l-Istatus tal-Istituzzjonijiet Nazzjonali (Prinċipji ta' Pariġi) u li din tingħata poteri wiesgħa sabiex tissalvagwardja d-dinjità u d-drittijiet tal-individwu, jiġi regolat l-operat indipendenti u imparzjali tagħha u jikkonsolida l-ligijiet u r-regolamenti rilevanti taħt Att wieħed, jiġi mħassar u sostitwit l-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa (Kap. 456), u sabiex għall-ewwel darba jiġi introdott fil-ligi Maltija l-Artikolu 1 tat-Tnax-il Protokoll tal-Konvenzjoni għall-Protezzjoni tad-Drittijiet tal-Bniedem u Libertajiet Fundamentali, b'hekk tiġi provduta aktar protezzjoni għall-individwu minn kwalunkwe xorta ta' diskriminazzjoni.

A BILL
entitled

AN ACT to establish the National Commission for Human Rights and Equality and to provide for any matter ancillary and consequential thereto.

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:-

ARRANGEMENT OF ACT

		Articles
Part I	Preliminary	1 - 2
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PART I
PRELIMINARY

Short title,
scope and
commencement.

1. (1) The short title of this Act is the National Commission for Human Rights and Equality Act, 2026.

(2) The purpose of this Act is to establish a National Commission for Human Rights in accordance with the principles relating to the status of national institutions (the Paris Principles) and to transpose the following relevant provisions:

(a) Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services;

(b) Communication from the European Commission (22.12.2011 C(2011)9497) containing Guidelines on the application of Council Directive 2004/113/EC to insurance, in the light of the judgment of the Court of Justice of the European Union in Case C-236/09 (Test-Achats);

(c) Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers;

(d) Article 10 of the Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures;

(e) Council Directive (EU) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC;

(f) Directive (EU) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU.

(3) This Act shall come into force on such date or dates as the Minister responsible for equality, may establish by notice in the Gazette and different dates may be so established for different provisions and, or purposes of this Act, which date shall not be less than two (2) months from the date of the publication of this Act in the Gazette.

2. (1) In this Act, unless the context otherwise requires: Interpretation.

"Commission" means the National Commission for Human Rights and Equality as established by article 17;

"Commissioner" means the Commissioner for Human Rights and Equality as established by article 21;

"discrimination" means the conduct as established in article 4;

"employment" means any gainful activity including self-employment and includes promotion and transfer to another post, as well as access to vocational or professional training, the duration of the employment or its extension or termination;

"equal treatment" means the absence of discrimination on the basis of any one (1) or more of any of the protected characteristics;

"family member" means:

(a) a spouse, unless that person is a party to a marriage of convenience;

(b) a partner in a civil union, unless that person is a party to a partnership of convenience;

(c) the direct descendants who have not attained the age of twenty-one (21) years or who are dependent and those of the spouse or partner;

(d) the direct dependent relatives in the ascending line and those of the spouse or partner;

"harassment" means, without prejudice to the provisions of article 251A of the Criminal Code, unwanted behaviour, including that which is carried out through electronic systems or social media, relating to any one (1) or more of any of the protected characteristics, which has the purpose or effect of violating the dignity of a person and, or creating an intimidating, Cap. 9.

hostile, degrading, humiliating or offensive environment, as well as any less favourable treatment based on a person's refusal of, or submission to, such conduct;

Cap. 319. "human rights" means the fundamental rights and freedoms as established in the Constitution and those fundamental rights and freedoms as listed in articles 2 to 18 of the European Convention on Human Rights and articles 1 to 3 of the First Protocol, articles 1 to 4 of the Fourth Protocol, articles 1 and 2 of the Sixth Protocol, articles 1 to 5 of the Seventh Protocol to the Convention and article 1 of the Twelfth Protocol, which articles are reproduced in the First Schedule to the European Convention Act, those fundamental rights and freedoms as established in any other international human rights treaties ratified by Malta in so far as they are enforceable by any person according to, and as part of Maltese law;

Cap. 345. "listed company" shall have the same meaning as assigned to it in article 2(1) of the Financial Markets Act;

"Minister" means the Minister responsible for equality;

"officially appointed bodies" means commissions, boards, committees, councils and any other bodies which are directly appointed by the Government, with the exclusion of those bodies referred to in article 110(6) of the Constitution;

"personal data" shall have the same meaning as assigned to it in Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

"positive action" means the adoption or maintenance of specific measures to prevent disadvantages related to any of the protected characteristics and, or to compensate for existing disadvantages related to any of the protected characteristics, as long as such disadvantages continue to exist;

"protected characteristics" means the characteristics as established by article 3;

"reasonable accommodation" means adjustments or alterations that do not impose a disproportionate or unjustifiable burden where needed in a particular case, to ensure the enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms;

"right to equal treatment and non-discrimination" means the rights to protection from discrimination as provided for by any Maltese law and, by international or regional obligations binding on Malta, and includes in particular, the protection from discrimination as provided for by Part I of this Act and the Schedule;

"self-employed persons" means all persons pursuing a gainful activity for their own account, and the spouses of self-employed workers not being employees or business partners, where they habitually participate in the activities of the self-employed worker and perform the same tasks or ancillary tasks;

"sexual harassment" means, without prejudice to the provisions of article 251A of the Criminal Code, unwanted verbal, non-verbal or physical conduct of a sexual nature, including that which is carried out through electronic systems or social media, which has the purpose or effect of violating the dignity of a person and, or creating an intimidating, hostile, degrading or offensive environment, as well as any less favourable treatment based on a person's refusal of, or submission to, such conduct; Cap. 9.

"universal design" means the design of products and environments which can be used and accessed by all persons in the most inclusive manner possible, without the need for adaptation or specialised design;

"victimisation" means less favourable treatment with regard to a person due to the fact that the said person files a complaint with the competent authorities or commences or participates in proceedings for redress on grounds of alleged breaches of the provisions of this Act, or with regard to a person who acts on behalf of and, or in the interests of, such person;

"vocational training" means all forms of vocational training and retraining.

(2) Differential treatment shall not be considered to constitute discrimination and, or a violation of the right to equal treatment and non-discrimination as long as such treatment constitutes measures of positive action.

(3) This Act shall not be construed or applied in a manner that prejudices or affects the organisational or internal structure, status, or activities of churches, religious orders or other religious communities, including but not limited to, rules relating to religious practice, access

to priesthood, membership in any religious order or community, and as well as the display or use of religious symbols.

(4) This Act is without prejudice to laws and conditions relating to the entry into and residence of third-country nationals and stateless persons in Malta and to any treatment which arises from the legal status of these individuals concerned.

Cap. 627. (5) With regard to disability, this Act is without prejudice to the relevant provisions of the United Nations Convention on the Rights of Persons with Disabilities Act.

PART II

RIGHT TO EQUALITY

Protected characteristics.

3. In this Act the protected characteristics include but are not limited to: sex, family responsibilities, health status, sexual orientation, disability, age, religion or belief, racial or ethnic origin, gender identity, gender expression, sex characteristics or other status.

Discrimination.

4. (1) Discrimination on the basis of any one or more of the protected characteristics is prohibited.

(2) Discrimination may occur:

(a) on the basis of a single ground, that shall be deemed to occur when a person is discriminated against on the basis of only one (1) of the protected characteristics; or

(b) on the basis of multiple grounds, that shall be deemed to occur when a person is discriminated against on the basis of a combination of two (2) or more of the protected characteristics.

(3) In any of the forms listed in sub-article (2), discrimination may be:

(a) direct, which shall be deemed to occur where a person is treated less favourably than another person is, has been or would be treated in a comparable situation, on the basis of one (1) or more of the protected characteristics;

(b) indirect, which shall be deemed to occur where there shall be any treatment based on an apparently neutral provision, criterion or practice, that would put persons having any one (1) or more of any of the protected characteristics at a particular disadvantage when compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are

appropriate and necessary;

- (c) harassment and, or sexual harassment:

Provided that this conduct may also constitute a criminal offence, and such person shall be punishable to a crime in accordance with the Criminal Code;

Cap. 9.

(d) treating a person less favourably for reasons of potential or actual pregnancy or childbirth;

(e) instructions to discriminate, which shall be deemed to occur in situations where a person having delegated authority to act on behalf of another person is instructed by such other person to perform any act which is deemed to constitute discrimination:

Provided that such action shall also be deemed to have been carried out by the person who instructed another person to perform such discriminatory act;

- (f) victimisation.

5. (1) Without prejudice to the provisions of article 26 of the Employment and Industrial Relations Act, an employer shall not discriminate against a person in the following instances:

Discrimination
in employment.
Cap. 452.

(a) in the arrangements made for, or in the course of, determining who shall be offered employment;

(b) in the terms and conditions on which employment shall be offered;

(c) in the decisions as to who shall be dismissed from employment; or

(d) in the manner in which work shall be conducted, promotions given, work distributed, training opportunities offered or when the working conditions are varied in a manner that an employee is assigned a less favourable status than others on the basis of a protected characteristic:

Provided that an employer shall also be deemed to have discriminated against a person where the employer changes the working conditions or the terms of employment of employees after those employees have invoked any right granted to them under this Act or any other law, or have requested the performance in their favour of any obligation or duty under this

Act, or any other law, or if they fail in their obligation to suppress any form of harassment.

(2) In relation to access to employment, a less favourable treatment which is based on a protected characteristic shall not constitute discriminatory treatment where by reason of the nature of the particular occupational activities concerned, or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the purpose is legitimate and the requirement is proportionate.

S.L. 452.95. (3) Regulation 4 of the Equal Treatment in Employment Regulations shall apply *mutatis mutandis* to this article.

Report on
employment
procedures.

6. (1) It shall be the duty of the employer upon the request of any person claiming that they have been discriminated against, or upon a request made by the Commissioner acting upon a complaint or otherwise, to provide such person or the Commissioner, as the case may be, within ten (10) working days of such a request, with a report on the allegation made or the procedures used by the employer to prevent such discrimination.

(2) The employer shall be entitled to claim from the person requesting the report, reimbursement of such reasonable expenses incurred in drawing up and making the report:

Provided that such expenses may be recovered from the person responsible for such discrimination if it is found that such discrimination has in fact taken place.

(3) Any correspondence referred to in sub-article (1) shall be admissible in proceedings brought before the Commission or any other court, tribunal, mediator or other forum, and if it appears to the tribunal or to any other court, tribunal, mediator, or other forum that the respondent deliberately, and without a reasonable justification, failed to reply within ten (10) working days of the date of receipt of such notification or that his reply was evasive or equivocal, the Commission or any other court, tribunal, mediator or other forum may draw any inference from such fact that it considers just and equitable, including an inference that he committed an unlawful act.

(4) The provisions of sub-article (1) shall not apply if, on the date on which the claim was made, proceedings relating to the request have already commenced before the Commission or any other court, tribunal, mediator, or forum.

7. (1) Spouses of self-employed workers not being employees or partners, who participate in the activities of the self employed workers and that perform the same or ancillary tasks as their spouse, shall be entitled to receive from their spouse a fair compensation for their activity, commensurate to the value of their contribution.

Compensation for assisting spouses of self-employed workers.

(2) The provisions of sub-article (1) shall not apply where the system of community of acquests or community of residue under separate administration subsists between the spouses.

8. (1) No educational entity or establishment providing training or vocational guidance shall discriminate against any person:

Education and vocational guidance.

(a) in the access to any course, training or vocational guidance;

(b) in the award of educational support for students or trainees;

(c) in the selection and implementation of the curricula;
or

(d) in the assessment of the skills or knowledge of the students or trainees.

(2) Failure by the persons responsible for such entities and establishments to fulfil their obligation to suppress harassment as provided in article 5(1) and, or article 9(2) shall for the purposes of sub-article (1), constitute discrimination.

(3) It shall be the duty of such entities and establishments, within the limits of their competence to ensure that curricula and textbooks do not include discriminatory content.

9. (1) Without prejudice to the provisions of article 29 of the Employment and Industrial Relations Act, no person shall harass and, or sexually harass any other person.

Harassment and sexual harassment. Cap. 452.

(2) Persons responsible for any work place, educational entities or establishments providing training or vocational guidance, or for any establishment at which goods, services or accommodation facilities are offered to the public, shall not permit other persons who have a right to be present in, or to avail themselves of any facility, goods or service provided at that place, to suffer harassment and, or sexual harassment at such place.

(3) Persons responsible in accordance with sub-article (2) shall not be liable for harassment or sexual harassment occurring in that

place if they show that they have taken such steps as were reasonably practicable to prevent such harassment or sexual harassment.

Discriminatory
advertisement.
Cap. 452.

10. (1) Without prejudice to the provisions of article 26 of the Employment and Industrial Relations Act, it shall be unlawful for any person to publish or display, or cause to be published or displayed, any advertisement or otherwise advertise a vacancy for employment which discriminates among job seekers, or to request from job seekers information concerning their private life or family plans:

Provided that in relation to any advertisement related to recruitment, any difference in treatment shall relate to a genuine and determining occupational requirement, and the application of such requirement shall be a proportionate means of achieving a legitimate aim.

(2) It shall not be lawful for persons to publish or display, or cause to be published or displayed, any advertisement which promotes discrimination or is otherwise discriminatory.

Cap. 9.

(3) Persons who act in breach of sub-article (1) or (2) shall be guilty of an offence under this article and shall on conviction be liable to a penalty in accordance with article 338 of the Criminal Code.

(4) For the purposes of sub-article (1), advertising shall include the dissemination of information about a vacancy by word of mouth from person to person.

Access to goods
and services and
their supply.

11. (1) No person shall discriminate against any person in access to, and the supply of, goods and services.

(2) Without prejudice to the provisions of article 12, this article shall apply to all persons who provide goods and services made available to the public, whether in the public as well as in the private sectors, including public bodies, where such goods are offered outside the ambit of private and family life, and to any transactions carried out in such context.

(3) For the purposes of this article, any person or organisation to whom this article applies shall also be deemed to have discriminated against a person if they neglect their obligation to prevent any form of harassment and, or sexual harassment within their organisation.

(4) This article shall not preclude differences in treatment where the provision of goods or services exclusively or primarily to members of any one (1) of the protected characteristics is justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

(5) This article does not apply to matters relating to employment, occupation or self-employment, insofar as those matters are regulated by other laws or regulations.

(6) Any association, organisation or other legal entity having a legitimate interest in ensuring compliance with the provisions of this article, shall not be precluded from being a party itself, either on behalf or in support of the complainant, with his or her approval, in any judicial or administrative procedure as shall be provided for the enforcement of obligations under this article.

(7) Persons and organisations to whom this article applies shall take the necessary measures to ensure that the principle of equal treatment is respected in relation to the access to, and the supply of, goods and services within the scope of this article, and in particular that administrative provisions contrary to the principle of equal treatment are abolished and that any contractual provisions, internal rules of undertakings and rules governing profit-making or non-profit-making associations contrary to the principle of equal treatment are abolished or amended.

(8) In any case, any provision or practice contrary to the principle of equal treatment shall be deemed null and void.

12. (1) No bank or other financial services provider shall discriminate in access to, or the provision of, any service it provides.

Banks, financial
service
providers and
insurers.

(2) No insurer shall discriminate in access to, or the provision of, any insurance cover or service it provides.

(3) Sub-articles (1) and (2) shall not be considered to constitute discrimination, where the conditions under which banking, financial services or insurance are offered or withheld by banks, other financial service providers or insurers are based on genuine considerations arising from an assessment of financial risk in the provision of such services.

(4) For the purposes of sub-article (3), insurers who use any protected characteristic as a determining factor in the conditions under which an insurance service is offered or withheld, shall submit an annual notification to the Commission, which shall include the following details:

- (a) the insurer's name;
- (b) the relevant insurance service in respect of which the notification is submitted;

(c) the rationale for which the protected characteristic is being used as a determining factor; and

(d) the statistical or actuarial information upon which that rationale is based.

Persons with disability.

Cap. 413.
Cap. 627.

13. Articles 11 and 12 relating to discrimination in access to goods and services shall not be interpreted or applied as creating rights or obligations beyond those established in the Equal Opportunities (Persons with Disability) Act, the United Nations Convention on the Rights of Persons with Disabilities Act, or in any subsidiary legislation made thereunder:

Provided that articles 11 and 12 shall not be construed as limiting, restricting, or otherwise derogating from any rights or obligations established under the aforementioned legislation.

Actuarial statistical data factors.

14. (1) Subject to sub-article (2), the use of sex as a factor in the calculation of premiums and benefits for the purposes of insurance and related financial services shall not result in differences in the premiums and benefits relating to a person with respect to insurance contracts concluded after 21st December 2007 where the policyholder is a person.

(2) The provisions of sub-article (1) shall not apply with respect to insurance contracts concluded before 21st December 2012, where sex is used as a determining factor in the assessment of risk, if the resulting differences in the premiums and benefits relating to an individual are proportionate, and where this assessment is based on relevant and accurate actuarial statistical data.

(3) For the purposes of sub-article (2), providers of insurance and related financial services that use such a determining factor shall file an annual notification to such effect with the Commission.

(4) Such notification shall include the following details:

(a) the name of the service provider;

(b) the product or service in relation to which the notification is being filed;

(c) a rationale for why sex shall be used as a determining factor; and

(d) the actuarial statistical data on which such rationale is based.

(5) For the purposes of sub-article (2), an insurance contract shall be deemed to have been concluded before 21st December 2012 notwithstanding that:

(a) the said insurance contract shall be extended automatically on, or after 21st December 2012 on the basis of terms and conditions in an insurance contract concluded before 21st December 2012, hereinafter referred to as a "pre-existing contract";

(b) the said insurance contract shall be amended on, or after 21st December 2012 on the basis of terms and conditions in a pre-existing contract, where the consent of the policyholder is not required;

(c) the said insurance contract shall be a complementary or continuation of the insurance policy whose terms were agreed in a pre-existing contract, where such insurance contract is activated by the unilateral decision of the policyholder;

(d) a pre-existing contract shall be amended on, or after 21st December 2012 on the request and with the consent of the policyholder, provided that such amendment does not result in any increase in premium; or

(e) the said insurance contract shall be part of a scheme under which an insurance company transfers to another insurance company all rights and obligations arising from pre-existing contracts in accordance with the provisions of the Insurance Business Act.

Cap. 403.

15. (1) No person shall discriminate against citizens of the European Union and their family members in the area of freedom of movement for workers, in relation to:

Exercise of the rights of freedom of movement.

(a) access to employment;

(b) conditions of employment and work, in particular as regards remuneration, dismissal, health and safety at work and, if workers become unemployed, reinstatement or re-employment;

(c) access to social and tax advantages;

(d) membership in trade unions and eligibility for workers' representative bodies;

(e) access to training;

(f) access to housing;

(g) access to education, apprenticeship and vocational training for the children of workers; and

(h) assistance afforded by the employment offices.

(2) Persons who feel that they have suffered or are suffering from obstacles or unjustified restrictions to their right to free movement, shall have the right to file a complaint with the Commissioner, even after the relationship in which the obstacle or restriction is alleged to have occurred has ended, and the Commissioner shall initiate the proceedings prescribed in this Act or in any other applicable law.

(3) Persons who feel that they are victims of discrimination within the scope of this article, shall have the right to file a complaint with the Commissioner even after the relationship in which the discrimination is alleged to have occurred has ended, and the Commissioner shall initiate the proceedings prescribed in this Act or in any other applicable law.

(4) This article shall not prevent any associations, organisations, including social partners or other legal entities having a legitimate interest in ensuring that the provisions of this article are complied with, from being a party themselves either on behalf or in support of the complainant, with his approval, in any judicial and, or administrative procedure as is provided for the enforcement of the rights under this article:

Provided that the provisions of this article shall apply without prejudice to any other competences and collective rights of social partners and employees' and employers' representatives, where applicable, including the right to take action on behalf of a collective interest.

Civil
proceedings.
Cap. 452.

16. (1) Without prejudice to the provisions of article 30 of the Employment and Industrial Relations Act, a person who alleges that any other person has committed in his regard any act which breaches any of the provisions of this Part, shall have a right of action before the competent court of civil jurisdiction requesting the court to order the defendant to desist from such acts in breach any of the provisions of this Part and, where applicable, to order the payment of compensation for any damage suffered as a result of such unlawful act in breach of any provision of this Part.

(2) In any action as provided under sub-article (1), the plaintiff shall in addition to any damages and costs as may have been actually suffered and as may be due in accordance with the law, be entitled to

recover by way of compensation such sum as the court may, in its discretion, consider reasonable taking into account all the circumstances of the case. The court shall however ensure that the compensation is dissuasive and proportionate to the damage suffered.

(3) In any proceedings under sub-article (1) and in any proceedings concerning the application of the principle of equal treatment before a competent authority other than a court referred to in sub-article (1), where persons who consider themselves to have been treated unfairly because the principle of equal treatment was not applied to them establish, before the Court or before such other competent authority, facts from which it may be presumed that they have been treated less favourably, it shall be for the defendant or the person against whom such proceedings are brought to prove that there has been no breach of the principle of equal treatment, or that such less favourable treatment was justified in accordance with the provisions of this Part. The Court or other competent authority shall uphold the complaint, if the defendant or other person against whom the proceedings before the competent authority are brought fails to prove that he did not breach any of the provisions of the law.

PART III

NATIONAL COMMISSION FOR HUMAN RIGHTS AND EQUALITY

17. (1) There shall be a Commission to be known as the National Commission for Human Rights and Equality, to promote and protect human rights and the right to equal treatment and non-discrimination, in accordance with the functions and powers assigned to it by this Act.

National
Commission for
Human Rights
and Equality.

(2) The Commission shall be responsible to Parliament and shall perform its functions with impartiality and independence.

(3) In the exercise of their functions under this Act, the Commissioner and the members of the Commission shall not be subject to the direction or control of any other person or authority.

(4) The Commission shall, in the performance of its functions, have regard to and be guided, to the extent it deems appropriate, by best international practices applicable to national human rights institutions and equality bodies.

(5) The Commission shall be a body corporate having a distinct legal personality and capable of entering into contracts, of employing staff, of acquiring, holding and disposing of any property for the purposes of its functions under this Act or any other law, of suing and

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being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions in accordance with this Act.

Composition of the Commission.

18. The Commission shall be composed of a Commissioner and nine (9) other members.

Eligibility.

19. (1) A person shall be eligible for appointment as Commissioner if that person has knowledge of, and at least five (5) years of professional experience in, any field within the human rights or equality sector.

(2) A person shall be eligible for appointment as a member of the Commission if that person has knowledge of, and at least three (3) years of professional or voluntary experience in any field within the human rights or equality sector.

Disqualification.

20. (1) A person shall not be qualified for appointment as Commissioner or a member of the Commission if that person:

(a) is a member of the House of Representatives or of the European Parliament;

(b) is a member of a local council;

(c) is a practicing Judge or Magistrate;

(d) is legally interdicted or incapacitated;

(e) has been convicted of an offence that relates to, or has been found to be personally responsible for, a breach of human rights or the right to equal treatment and non-discrimination;

(f) has been convicted by a court for a period of imprisonment or found guilty by a court of any of the offences found in Titles III, V or VI of Part II of Book First of the Criminal Code;

Cap. 9.

(g) is subject to disqualification under article 320 of the Companies Act;

Cap. 386.

(h) is involved or has interest in any enterprise or activity which is likely to affect the proper discharge of his functions as a member of the Commission;

(i) is an undischarged bankrupt or has made an arrangement with his creditors, or is insolvent; or

(j) has already occupied a position within the Commission for two (2) terms.

(2) The Commissioner and the members of the Commission shall not, throughout their term in office, hold any position or any office which is incompatible with the correct performance of their official duties under this Act, or with their impartiality and independence or with public confidence therein.

21. (1) The appointment of the Commissioner shall be made by the President of the Republic acting in accordance with a resolution of the House supported by the votes of not less than two-thirds (2/3) of all the members of the House: Appointment.

Provided that if the resolution when put to the vote, is not supported by the votes of not less than two-thirds (2/3) of all the members of the House, a second vote on the resolution shall be taken not earlier than seven (7) days from the first vote, which shall also require the votes of not less than two-thirds (2/3) of all the members of the House. If at the second vote the resolution is not supported by the votes of not less than two-thirds (2/3) of all the members of the House, a third vote shall be taken not earlier than seven (7) days from the second vote. At the third vote, the resolution shall be approved provided that it is supported by the majority of the votes of all the members of the House:

Provided further that where a second vote is to be taken, new candidates for the office of Commissioner may be nominated, by way of an amendment to the original motion, together with or instead of any previously nominated candidate, before the taking of the second vote:

Provided further that where a person who is not a member of the House of Representatives is elected to be Speaker of the House of Representatives, the said person shall not be considered to be a member of the House for the purpose of establishing the majority required by this article.

(2) The Minister shall appoint an Appointments Commission, which shall be composed of a Chairperson who shall be the Chairperson of the Public Service Commission, *ex officio*, a person who has knowledge in any field within the human rights or equality sector and another member who shall be a retired Judge or Magistrate.

(3) The Appointments Commission shall issue a public call for applications for persons who possess the qualifications and experience required for appointment as members of the Commission in

accordance with article 19(2):

Provided that if after two (2) public calls for applications in accordance with this article, there are insufficient applicants for the Commission to carry out its functions in accordance with this Act, the Commissioner shall, after consulting the Appointments Commission, nominate persons who are eligible for appointment as members of the Commission in accordance with article 19(2).

(4) The members of the Commission shall be appointed by the Commissioner, acting on the recommendation made by the Appointments Commission after having examined the applicants or the nominated persons, as the case may be:

Provided that the selection of the members of the Commission shall as far as possible reflect a balanced, broad, and pluralistic representation of Maltese society, with broad expertise within the sector of human rights and the right to equal treatment and non-discrimination:

Provided further that where the Commissioner appoints any person nominated by him, the Commissioner shall, not later than three (3) months from the appointment, publish a report providing the details of the process of the two (2) public calls, the reasons for his nominations, and the recommendations of the Appointments Commission in respect of the nominated persons.

(5) The Commissioner and the members of the Commission shall nominate any one (1) of its members to act as Deputy Commissioner and the member so designated shall have all the powers and shall perform all the functions of the Commissioner during his temporary absence or his temporary inability or while the Commissioner is on vacation, or during any vacancy in the office of the Commissioner. The name of the person designated as Deputy Commissioner shall be published in the Gazette:

Provided that during the period in which the Deputy Commissioner is performing all the functions of the Commissioner in accordance with this sub-article, a sufficient salary shall be paid, which shall not exceed the amount being paid to the Commissioner.

Declaration and
conflict of
interest.

22. (1) Any member of the Commission, including the Commissioner, who has any direct or indirect interest in any matter or situation being considered or investigated by the Commission, not being an interest that disqualifies such member from remaining a member, shall disclose the nature of that interest at the first meeting of the Commission after the relevant facts have come to the member's

knowledge.

(2) Such disclosure shall be recorded in the minutes of the meeting, and the member having an interest as aforesaid shall withdraw from any meeting at which such matter or situation is discussed.

23. The term of office of the Commissioner and the members of the Commission shall be of five (5) years: Term of office.

Provided that the Commissioner and every member of the Commission shall be eligible for re-appointment for one (1) further term of five (5) years, by the same procedure in accordance with sub-articles (1) and (4) of article 21, as the case may be.

24. (1) Without prejudice to article 23, the Commissioner and the members of the Commission shall not be removed from office except by the President of the Republic acting upon an address of the House, supported by the votes of not less than two-thirds (2/3) of the members thereof, requesting such removal on grounds that the Commissioner or the member concerned: Termination and resignation. Cap. 12.

(a) is proven incapable of performing the functions of his office or has been guilty of misconduct;

(b) holds any position which is incompatible with the proper performance of his official duties or with his impartiality and independence, or with public confidence therein; or

(c) is no longer eligible for appointment as Commissioner or as a member, in accordance with article 20.

(2) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the termination of the office of the Commissioner or a member of the Commission in accordance with the provisions of the preceding sub-article.

(3) The Commissioner and members of the Commission may, at any time, resign from their office by notice in writing to the President of the Republic, and the resignation shall take effect on the day on which the said President of the Republic receives such notice.

25. (1) The meetings of the Commission shall be convened by the Commissioner as often as may be necessary for the due fulfilment of its functions, and in any case not less than twice (2) a month, either on his own initiative or at the request of any two (2) other members of the Commission: Proceedings of the Commission.

Provided that the members of the Commission may decide by vote to meet only once (1) in any month, and the reasons for such decision shall be recorded in the minutes of the meeting.

(2) The quorum for meetings of the Commission shall be six (6) members, one (1) of whom shall be the Commissioner or the Deputy Commissioner.

(3) Decisions of the Commission shall be taken by a simple majority of the votes of the members present. In the event of a tie, the Commissioner shall also have a casting vote.

(4) The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any member.

(5) The Commission may appoint a secretary to assist with the taking of minutes of its meetings.

(6) The Commission may, from time to time, invite any person to attend one or more of its meetings, in particular to provide expert advice on specific issues.

(7) The Commission may appoint sub-committees or working groups as it deems appropriate in order to better discharge its functions:

Provided that any sub-committee or working group so appointed shall always be chaired by a member of the Commission.

(8) Without prejudice to the provisions of this Act, the Commission shall regulate its own proceedings.

(9) The rules relating to the procedures of the Commission in accordance with sub-article (8) shall be made in writing not later than twelve (12) months from the coming into force of this Act, and shall be publicly available and easily accessible, and shall as far as possible, address all matters relating to the functions of the Commission.

Standing
Advisory
Committee.

26. (1) There shall be established a Standing Advisory Committee within the Commission which shall be composed as follows:

(a) the Commissioner on Gender-Based Violence and Domestic Violence *ex officio*;

(b) the Commissioner for the Rights of Persons with Disability *ex officio*;

- (c) the Commissioner for Older Persons *ex officio*;
- (d) the Commissioner for Inmates Welfare and Development *ex officio*;
- (e) the Information and Data Protection Commissioner *ex officio*;
- (f) the Commissioner for Voluntary Organisations *ex officio*;
- (g) the Commissioner for Mental Health *ex officio*; and
- (h) the Commissioner for Children *ex officio*.

(2) The Standing Advisory Committee shall meet as often as necessary and shall regulate its own procedures.

(3) The Standing Advisory Committee shall give its recommendations to the Commission when requested by the Commission, which recommendations shall not be binding on the Commission.

(4) The Standing Advisory Committee shall have the power to submit to the Commission, on a consultative basis and on its own initiative, opinions, recommendations, proposals and reports on any material concerning the promotion and protection of human rights and the right to equal treatment and non-discrimination.

27. The legal and judicial representation of the Commission shall vest in the Commissioner, provided that the Commission may appoint any one or more of its members or any one or more of its officers or employees, to appear in its name and on its behalf in any judicial proceedings and on any act, contract, agreement or other document whatsoever.

Legal and
judicial
representation.

PART IV FUNCTIONS AND POWERS

28. (1) The functions of the Commission shall be the following:

Functions of the
Commission.

- (a) to promote and protect human rights and the right to equal treatment and non-discrimination;
- (b) to work in favour of the right to equal treatment and in favour of the elimination of abuse of human rights and any form of discrimination;
- (c) to encourage the development of a culture of respect

for human rights and the right to equal treatment and non-discrimination and inter-cultural dialogue;

(d) to enhance public knowledge and understanding on human rights and the right to equal treatment and non-discrimination and combat all forms of discrimination by increasing public awareness, especially through the dissemination of information and education;

(e) to ensure that public authorities comply with Article 1 of the Twelfth Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms through the powers conferred upon it by this Act, and to strengthen awareness and its application;

(f) to ensure appropriate communication tools and formats for all persons, and with particular focus on persons whose access to information is or may be hindered, for example due to their precarious economic status, age, disability, level of literacy, nationality or residence status, or due to their lack of access to online tools;

(g) to ensure accessibility and the provision of reasonable accommodations for persons with disabilities, to guarantee their equal access to all its services and activities, including assistance to victims, complaint handling, alternative dispute resolution, information and publications, as well as prevention, promotion and awareness-raising activities;

(h) to submit to Government, Parliament and public bodies, on an advisory basis, either at the request of the authorities concerned or on its own initiative, opinions, recommendations, proposals, and reports on any matter concerning discrimination, the promotion and protection of human rights and the right to equal treatment and non-discrimination and to request information from the said authorities in order to be able to monitor the implementation of its recommendations and proposals;

(i) to monitor and examine the drafting and the implementation of national policies related to human rights and the right to equal treatment and non-discrimination and all forms of discrimination and to make such recommendations as it deems appropriate in order to ensure that these policies conform to human rights and the right to equal treatment and non-discrimination;

(j) to monitor and examine the drafting and the implementation of measures and national policies related to the principle of positive action, and to make such recommendations as it deems appropriate in order to ensure that these measures and policies are in conformity with the principle of positive action;

(k) to examine and keep under review the adequacy and effectiveness of legislative or administrative provisions in force, as well as bills and legislative proposals, either at the request of the authorities or on its own initiative, and to make such recommendations as it deems appropriate in order to ensure that these provisions conform to human rights and the right to equal treatment and non-discrimination, and if necessary, to recommend the adoption of new legislation, the amendment of legislation already in force and the adoption or amendment of administrative measures;

(l) to monitor the execution of decisions by courts and tribunals competent to deal with human rights or the right to equal treatment and non-discrimination;

(m) to monitor and promote the harmonisation of national legislation, regulations and practices with international human rights and equality and non-discrimination instruments to which Malta is a party, and their effective implementation;

(n) to encourage the ratification of, or accession to international human rights and equality and non-discrimination instruments, and their effective implementation;

(o) to draw up reports and to commission research on the national situation with regards to human rights and the right to equal treatment and non-discrimination, or on any subject or on any other specific sector related to the aforementioned;

(p) to maintain consultation, develop relationships and, where it considers it so appropriate to better fulfil its functions, co-operate with governmental organisations, trade unions, employers' associations, judicial bodies, lawyers' associations, the media, non-governmental organisations, and other civil society associations responsible for the promotion and protection of human rights and the right to equal treatment and non-discrimination or the elimination of human rights and equality violations and discrimination, or which are devoted to protecting particularly vulnerable groups;

(q) to contribute to the formulation of programmes for the teaching and research of human rights, equal treatment and non-discrimination, and to take part in their implementation in schools, colleges, universities and other educational establishments;

(r) to collaborate with other organisations in order to promote and protect human rights and the right to equal treatment and non-discrimination;

(s) to participate in, contribute to, and share information with international entities in international fora on global and regional developments of human rights, equal treatment and non-discrimination;

(t) to provide the necessary knowledge and skills in order to facilitate the implementation of human rights and the right to equal treatment and non-discrimination legislation enforceable in Malta through the use, among others, of training and awareness raising campaigns;

(u) to publish any material which it considers to be of public interest in accordance with the provisions of this Act;

(v) to conduct general and independent investigations when it has a reasonable suspicion of a violation of human rights or the right to equal treatment and non-discrimination which is of public interest or affects a particular sector or group of society, and to issue its opinion;

(w) to independently investigate complaints of an individual nature alleging violations of human rights or the right to equal treatment and non-discrimination;

(x) to provide mediation services with a view to resolving the matter amicably in accordance with article 29(7);

(y) to participate as *amicus curiae* in proceedings before any court, tribunal, mediator and, or other forum, in which points of law relating to human rights and the right to equal treatment and non-discrimination are being discussed and decided, at the request of the Commission or at the request of the court, tribunal, mediator and, or other forum, as the case may be;

(z) to participate before any court, tribunal, mediator and, or other forum, in support of one or several alleged victims, in which points of law concerning human rights and the right to

equal treatment and non-discrimination are being discussed and decided, with the approval of such person;

(aa) to appear before any court, tribunal, mediator and, or other forum, on behalf of a worker who is an alleged victim of a breach of any right or obligation relating to the principle of equal pay, with that person's approval;

(ab) to provide assistance, depending on the circumstances, to persons in enforcing their rights under this Act and initially by informing them about:

(i) the legal framework, including advice targeted at their specific situation;

(ii) the services offered by the Commission and related procedural aspects;

(iii) the available remedies, including the possibility of instituting a case in court;

(iv) the applicable confidentiality rules and the protection of personal data; and

(v) the possibilities of receiving psychological or other relevant support from other bodies or organisations;

(ac) to promote, analyse, monitor and support gender balance on the boards of listed companies in order to compile an annual report on the implementation of Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures:

Provided that in order to carry out its functions under this paragraph, the Commission shall, insofar as required, be provided by the Malta Financial Services Authority with information about the gender representation on the boards of listed companies and with information on the measures taken with a view to achieving the applicable objectives for the purposes of gender balance on the boards of listed companies, in accordance with the said Directive; and

(ad) to perform any other function as may be assigned to it by this Act or any other law.

(2) The functions of the Commission shall be exercised without prejudice to the provisions of the Equal Opportunities (Persons with Cap. 413.

Disability) Act.

(3) The Minister may make regulations to give better effect to the provisions of this article.

Investigations
and complaints.

29. (1) The Commissioner may, on his own initiative, initiate general and independent investigations when he has reasonable suspicion of a breach of human rights or the right to equal treatment and non-discrimination which is of public interest or affects a particular sector or group in society, and shall publish his opinion.

(2) The Commissioner may also initiate investigations on the receipt of a complaint in writing or online, from a person who claims to be a victim of a breach of human rights or of the right to equal treatment and non-discrimination:

Provided that any association, organisation, or legal entity having a legitimate interest in protecting human rights or the right to equal treatment and non-discrimination may submit a complaint to the Commissioner on behalf of a person who believes that he is a victim of a breach of human rights or the right to equal treatment and non-discrimination, requesting the Commissioner to initiate an investigation in accordance with this Act:

Provided further that the consent in writing of the person on behalf of whom the complaint is being submitted in terms of this sub-article shall be attached to the complaint.

(3) The Commissioner shall not take cognisance of any complaint unless such complaint is made within two (2) years from the date on which the alleged act occurred, or from the date on which the complainant first became aware of it, or if the alleged act is a continuous one, from the date on which it ceased or ceased to have a discriminatory effect, whichever is the earlier.

(4) Upon receiving a complaint, the Commissioner shall, within a reasonable time, inform the complainant whether the complaint shall be closed or whether there are grounds to proceed.

(5) A complaint made in accordance with this article may be submitted in Maltese or English, and the Commissioner may, where he deems it necessary, take such necessary steps to assist persons in submitting their complaint.

(6) In any case where a complaint relates to discrimination on the basis of multiple grounds and one of such grounds is disability, the Commissioner may consult and, or collaborate with the Commission for the Rights of Persons with Disability established by virtue of the Equal Opportunities (Persons with Disability) Act:

Cap. 413.

Provided that in cases where the Commissioner consults and, or collaborates as aforementioned, the Commissioner may, for the purposes of effectively investigating the complaint, disclose personal data to the Commissioner for the Rights of Persons with Disability:

Provided further that where a complaint relates only to disability as a protected characteristic under the provisions of this Act, the relevant provisions of the Equal Opportunities (Persons with Disability) Act shall apply.

Cap. 413.

(7) The Commissioner may, at any time before concluding the investigation and if he is of the opinion that it is an appropriate alternative, offer a mediation process with the aim to settle the matter amicably, and if the parties agree to mediation proceedings, the provisions of the Mediation Act shall apply *mutatis mutandis*:

Cap. 474.

Provided that in the case that the mediation does not result in an agreement between the parties, participation in mediation shall not prejudice the right of the parties or of the Commissioner to avail themselves of other legal remedies under this Act or any other law.

(8) In any case, the Commissioner, Commission members, and officers of the Commission shall treat all information obtained in the course of performance of their functions under this Act as confidential and shall not disclose such information unless such disclosure is necessary in the course of a prosecution or an action for redress.

(9) The services provided by the Commission in terms of this article shall be provided free of charge.

30. (1) Notwithstanding any provision in any law, any complaint written by a person in custody shall be immediately delivered, unopened and through secure means ensuring confidentiality and protection against unauthorised access, to the Commissioner by the person for the time being in charge of the place where the complainant is detained.

Complaints submitted by persons detained in custody.

(2) Any letter written by the Commissioner to a person detained in custody shall be immediately delivered, unopened and through secure means ensuring confidentiality and protection against unauthorised access, to such person, by the person for the time being in charge of the place where the complainant is being held.

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Complaints submitted by patients in licensed mental health facilities. Cap. 525.

31. (1) Notwithstanding any provision in any law, any complaint written by a patient in any mental health licensed facility in accordance with the Mental Health Act, addressed to the Commissioner, shall be immediately delivered, unopened and through secure means ensuring confidentiality and protection against unauthorised access, to the Commissioner by the person for the time being in charge of the facility where the complainant is a patient.

(2) Any letter written by the Commissioner to a patient so described shall be immediately delivered, unopened and through secure means ensuring confidentiality and protection against unauthorised access, to such patient, by the person for the time being in charge of that facility.

Complaints submitted by persons in geriatric facilities. Cap. 640.

32. (1) Notwithstanding any provision in any law, any complaint written by a person in any geriatric facility in accordance with the Older Persons Standards Authority Act, addressed to the Commissioner, shall be immediately delivered, unopened and through secure means ensuring confidentiality and protection against unauthorised access, to the Commissioner by the person for the time being in charge of the facility where the complainant is staying.

(2) Any letter written by the Commissioner to a person so described shall be immediately delivered, unopened and through secure means ensuring confidentiality and protection against unauthorised access, to such person, by the person for the time being in charge of that facility.

Notice of commencement of investigation and request for report.

33. (1) When commencing an investigation in exercise of the functions referred to in paragraphs (v) and (w) of sub-article (1) of article 28, the Commissioner shall with the assistance of the Commission, notify all the parties concerned by means of a registered letter that an investigation is being opened.

(2) In the notice of commencement of an investigation to the person who is allegedly responsible for the breach of human rights or the right to equal treatment and non-discrimination, the Commissioner shall inform such person of the allegations made in his regard and may request such person to provide within ten (10) days a report in relation to the allegations made:

Provided that the Commissioner shall have the right to commence and proceed with the investigation whether or otherwise the report is submitted by the person so requested within the stipulated time.

Burden of proof.

34. (1) In any proceedings before the Commission concerning the right to equal treatment and non-discrimination, it shall be

sufficient for the complainant to establish those facts from which it may be presumed that the alleged discrimination occurred, and it shall subsequently be incumbent on the respondent to prove that there has been no breach of the right to equal treatment and non-discrimination or that such act was justified in accordance with the applicable law.

(2) Without prejudice to the Code of Organization and Civil Procedure, in any proceedings mentioned under sub-article (1), indirect discrimination may be proven by any type of evidence, including circumstantial and statistical evidence based on actuarial principles, provided that such evidence is univocal. Cap. 12.

35. (1) The Commissioner, with the assistance of the Commission, may request from any person any information, including personal data, which he deems necessary for the carrying out of the investigation. Information required for investigation.

(2) The Commissioner may, by written notice sent by means of registered post and with the assistance of the Commission, request any person:

(a) to provide any information that may be specified in the notice within the time indicated therein; and

(b) to attend and give *viva voce* evidence on the matter specified in the notice, and to produce all documents in his possession or control relating to any such matter at a meeting scheduled for such purpose:

Provided that within the said notice, the Commissioner shall include a warning that, without prejudice to the provisos of sub-article (4), if a person refuses, or without sufficient cause fails to provide the information, produce the documents, or attend at the time and place mentioned in the notice, or refuses, without sufficient cause to reply or to reply fully and satisfactorily, to the best of his knowledge and understanding, all questions put to him by the Commissioner, he shall be guilty of an offence in accordance with sub-article (4).

(3) The Commissioner shall have power to summon witnesses, administer an oath to any witness or person concerned in the investigation, and require them to give evidence.

(4) Any person summoned in accordance with sub-article (3) who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses, without sufficient cause to reply or to reply fully and satisfactorily, to the best of his knowledge and understanding, all questions put to him by the Commissioner, or

refuses or fails, without sufficient cause, to produce any document he was required to produce by the Commissioner, shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding one thousand euro (€1,000) or to imprisonment for a term not exceeding three (3) months, or to both such fine and imprisonment:

Provided that a person shall not be obliged to give information or produce a document requested in the notice if that person is deemed to be exempt from providing such information or producing that document before a court in civil proceedings:

Provided further that no person who has been requested to provide any information or to produce any document in accordance with this article, may be compelled to reply any question which tends to expose him to any criminal prosecution.

Interim
measures.

36. (1) Where the investigation has not yet been concluded, in cases of urgency, due to the risk of serious and irreparable harm to any person or group of persons, the Commissioner may, on his own initiative or at the request of any of the parties, recommend that the necessary and appropriate interim measures be taken to prevent such harm.

(2) Any recommendation given by the Commissioner in accordance with this article is not binding on the parties:

Provided that without prejudice to the provisos of sub-article (4) of article 35, the person to whom the recommendation is made shall, within the time stipulated in the recommendation, provide the Commissioner with any information required in order for the Commissioner to determine whether his order has been implemented or otherwise:

Provided further that if the person to whom an order under this article is made, fails to provide such information to the Commissioner within the time stipulated in the recommendation, he shall be guilty of an offence and shall be liable on conviction, to the punishment established under sub-article (4) of article 35.

Action at the
end of an
investigation.

37. (1) Upon concluding his investigation, the Commissioner shall issue his opinion in writing:

Provided that the Commissioner shall publish his opinion, which shall include a description of facts, the suspected breach of human rights or the right to equal treatment and non-discrimination, the conclusions and his recommendations:

Provided further that before such publication, all personal

data shall be anonymised:

Provided further that notwithstanding all efforts made to anonymise the opinion, if a person remains identifiable, the Commissioner may decide to refuse the publication of such decision.

(2) Where after carrying out an investigation, the Commissioner concludes that the breach constitutes an offence, the Commissioner, after consulting with the victim, may submit a report to the Commissioner of Police for any necessary action to be taken.

(3) The Commissioner shall require the person in breach to remedy the situation immediately and submit, as the case may be, to the Commissioner a report on the implementation of his recommendations made in the opinion within the period specified in such opinion.

(4) The opinion of the Commissioner is not binding on the parties:

Provided that without prejudice to the provisions of the provisos of sub-article (4) of article 35, the person in breach shall, within the period stipulated in the opinion, provide the Commissioner with any information required in order for the Commissioner to determine whether his recommendations have been implemented or otherwise:

Provided further that if the person in breach fails to provide such information to the Commissioner within the stipulated period, he shall be guilty of an offence and shall be liable on conviction, to the punishment established under sub-article (4) of article 35.

38. (1) An investigation commenced upon receipt of a complaint shall be discontinued upon the withdrawal of the complaint: Withdrawal of the complaint.

Provided that this shall not prohibit the Commissioner, with the assistance of the Commission, from initiating a general investigation on the basis of any information collected during the investigation initiated on the basis of such complaint, if the Commissioner considers the general investigation to be of public interest or affects a particular sector or group of society.

(2) Where the investigation upon receipt of a complaint is discontinued according to sub-article (1), the Commissioner shall inform the complainant and the person against whom the complaint is directed in writing that the investigation has been discontinued.

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Enforcement of
written
agreements.

Cap. 474.

39. Where the Commissioner mediates between the parties in terms of article 29(7), with the aim of resolving the matter and the parties agree that the written agreement resulting from the mediation shall be enforceable in accordance with article 17B of the Mediation Act, and the person against whom the complaint is directed, or the complainant fails to comply with the mediation agreement, the Commissioner may act on behalf of the person who is being prejudiced by such non-compliance and request the competent Court, to order the defaulting party to comply with the terms of the said written agreement and take any remedial action as the court may deem appropriate:

Provided that the consent in writing of the person who is being prejudiced by the lack of compliance shall be attached to the application filed by the Commissioner:

Provided further that the power of the Commissioner in accordance with this article shall not prejudice any right or remedy granted to the parties in terms of any other law.

Annual report.

40. (1) The Commission shall as soon as practicable after the end of every calendar year, but in any case by not later than the end of March of the following year, submit to the Speaker a report on its activities during that year, such report shall hereinafter in this article be referred to as the "annual report".

(2) The annual report shall include a general report of developments and activities of the Commission during the period to which it relates, including the budget, personnel, and financial reports, in respect of matters falling within the functions of the Commission and shall also include an action plan on the priorities and prospective activities, as well as a report on recommendations, advice and other initiatives carried out by the Commission in furtherance of its functions to promote and protect human rights and the right to equal treatment and non-discrimination and the actions taken on the said recommendations, advice and initiatives during the period to which the report relates.

(3) The Commission shall gather data on its activities and shall have access to statistics relating to human rights and to the right of equal treatment and non-discrimination in order to produce the annual report:

Provided that the data gathered by the Commission shall be disaggregated according to the protected characteristics and the spheres of life in which protection from discrimination is applicable, such as in employment and in education, including those covered by EU Directives 2006/54/EC, 2010/41/EU, 79/7/EEC, 2000/43/EC,

2000/78/EC, and 2004/113/EC:

Provided further that any personal data collected shall be anonymised or, where that is not possible, pseudonymised.

(4) The Commission shall coordinate the gathering of data and make recommendations on which data should be gathered with regard to the rights and obligations arising from this Act, from public and private entities including public authorities, social partners, companies and civil society.

41. The Commission may from time to time in the public interest publish reports relating generally to the exercise of its functions under this Act as well as summaries of cases on which an opinion has been given by the Commissioner and which it thinks are of particular relevance. Such reports may be published, whether or otherwise the matters dealt with in the report form part of the annual report. Publications.

42. The Holders of Public Office and Public Entities (Responsibility) Act shall apply to the Commissioner, members of the Commission, the Executive Director and the officers of the Commission. Applicability of the Holders of Public Office and Public Entities (Responsibility) Act. Cap. 652.

43. The following matters shall not be subject to proceedings before the Commissioner: Matters not subject to proceedings.

(a) any matter certified by the Prime Minister to affect the internal or external security of Malta;

(b) action taken in matters certified by the Minister responsible for foreign affairs to affect relations or dealings between the Government and any other Government or any international organisation of States or Governments;

(c) action taken by the Minister responsible for justice under the Extradition Act; and Cap. 276.

(d) the exercise of the power of the Prime Minister under article 515 of the Criminal Code. Cap. 9.

PART V DUTY OF EQUALITY

44. (1) The public administration shall, in the exercise of its functions, have due regard to the need to: Duty of equality.

(a) eliminate discrimination;

(b) promote equality of opportunity for persons who, due to a protected characteristic, or a combination of protected characteristics, are at risk of discrimination;

(c) ensure the integration of equality in the provision of services, and in the formulation and implementation of laws, regulations, administrative provisions, policies, and activities across all areas;

(d) implement measures in conformity with the concept of reasonable accommodation and promote measures in conformity with the concept of universal design; and

(e) foster good relations between persons, regardless of their protected characteristics, by having due regard in particular to the need to tackle prejudice and promote equal treatment.

(2) The Commissioner has the right to request and receive information from the public administration about the implementation of the equality duty in terms of sub-article (1):

Provided that if the public administration fails to abide by the request of the Commissioner within the stipulated time, the Commissioner may, submit a report on the matter, together with any recommendations as he deems fit to the Prime Minister and to the Minister, and may thereafter submit such report to the House.

(3) The public administration shall:

(a) create and adopt, within one (1) year from the coming into force of this Act, an Action Plan which includes effective, measurable, comprehensive and co-ordinated policies, encompassing all relevant measures to promote equality and the protection of human rights;

(b) ensure the implementation of the aforementioned Action Plan by way of effective cooperation among other relevant Ministries, Commissions, agencies, authorities, institutions, organisations, civil society and any other relevant bodies;

(c) allocate appropriate financial and human resources for the adequate implementation of the aforementioned Action Plan, including those collaborative actions carried out by non-governmental organisations, agencies and civil society;

(d) review the Action Plan periodically, and at least once every five (5) years; and

(e) publish a report, at least once every five (5) years, detailing the progress and status of the Action Plan.

(4) A person who is not a public authority but who exercises public functions shall, in the exercise of those functions, have due regard to the matters mentioned in sub-article (1).

(5) Having due regard to the need to advance equality of opportunity for all persons, the public administration shall:

(a) remove disadvantages suffered by persons related to any one or more of any of the protected characteristics;

(b) take steps to satisfy the needs of persons with a protected characteristic who would be disadvantaged unless such measures are implemented; and

(c) implement measures to enable the participation in public life or in any other activity by persons who share a protected characteristic when participation by such persons is disproportionately low.

(6) The measures required to satisfy the needs of persons with disability shall include, in particular, measures which take account of the specific needs of such persons.

(7) Any action necessary for the compliance with the duties in this article, including positive action measures, shall not be tantamount to discrimination under this Act.

45. (1) Having due regard to the need to advance equality of opportunity for all persons, the public administration shall take the necessary positive actions, including as far as possible, ensuring that at least forty percent (40%) of the members appointed to officially appointed bodies are women and at least forty per cent (40%) of the rest are men:

Appointments
to officially
appointed
bodies.

Provided that in the remaining appointments, the public administration shall, as far as possible, consider the representation of non-binary genders:

Provided further that this sub-article shall apply only to appointments made after the coming into force of this Act.

(2) For the purposes of this article, the Commissioner may request and receive from the public administration information relating to officially designated bodies:

Provided that if the public administration fails to abide by the request of the Commissioner within the stipulated time, the Commissioner may, submit a report on the matter, together with any recommendations as he deems fit to the Prime Minister and to the Minister, and may thereafter submit such report to the House as he deems fit.

(3) After the first ten (10) years from the coming into force of this Act, the Commissioner shall evaluate the general situation of gender balance in the representation of men and women in Maltese society, and give his informed opinion to Government regarding the necessity of maintaining this article:

Provided that subsequently, the Commission shall carry out this exercise every five (5) years, as necessary.

PART VI
EMPLOYMENT OF STAFF AND RESOURCES

Executive
Director.

46. (1) The Commission shall appoint an Executive Director who shall act in accordance with such policies established by the Commission and such instructions as may be given by the Commissioner.

(2) The Executive Director shall hold office under a written contract of service for such period as is specified in the contract and subject to such terms and conditions as are so specified, including those relating to remuneration and allowances, as may be determined by the Commission.

(3) The Executive Director shall not be a member of the Commission, unless otherwise directed by the Commissioner, he shall attend meetings of the Commission *ex officio*, and shall have the right to speak and advise during such meetings.

(4) The Executive Director shall not be a public officer seconded or assigned from Government.

(5) The Executive Director shall not hold any other office or occupy any other position in respect of which emoluments are payable or carry on any business or hold any other role that constitutes a conflict of interest without the consent of the Commission.

(6) The Executive Director may be removed from office by the Commission for stated reasons and in accordance with its own discretion:

Provided that this termination is supported by the votes of not

less than two-thirds (2/3) of all the members of the Commission.

(7) The Executive Director may, at any time, resign his office by notice in writing to the Commission.

47. (1) The Executive Director shall carry out, manage and generally control the administration of the Commission and perform such other functions as may be determined by the Commission.

Functions of the Executive Director.

(2) The Executive Director shall perform his functions subject to such policies as determined by the Commission and shall be accountable to the Commission for the efficient and effective management of the Commission and for the proper performance of his functions.

(3) The Executive Director shall provide to the Commission such information in relation to the performance of his functions, including regular information with respect to the performance of those functions in so far as they relate to the financial affairs and budget of the Commission, as the Commission may require.

(4) The Executive Director shall be responsible for approving the necessary expenses for adequate premises, salaries, furnishings, materials and administrative activities required for the carrying out of the Commission's functions, powers and duties under this Act.

(5) The Executive Director may make proposals to the Commission on any matter relating to its functions, including any necessary policy recommendations.

(6) The Commission may designate a member of the staff of the Commission to temporarily perform the functions of Executive Director in the absence of the Executive Director or where the office of Executive Director is vacant, and a member so designated shall, in such absence or upon such position being vacant, perform those functions.

48. (1) The Commission may appoint such officers as it deems necessary to perform its functions and duties under this Act:

Officers of the Commission.

Provided that the selection of the officers of the Commission shall as far as possible, be made from a balanced, broad and pluralist representation of Maltese society.

(2) The power to appoint includes the approval, without prejudice to article 49, to the number of persons who may be appointed under this article, whether generally or in respect of any specific duties or classes of duties, as well as their salaries and conditions of

appointment in accordance with this Act.

Detailing of
public officers
for duty with the
Commission.

49. (1) The Prime Minister may, at the request of the Commission, from time to time, direct that any public officers shall be detailed for duty with the Commission in such capacity and with effect from such date as may be specified in the direction.

(2) The period during which a direction as aforesaid shall apply to any officers specified therein shall, unless the officers retire from the public service, or otherwise ceases to hold office at an earlier date, or unless a different date is specified in the direction, becomes effective on the happening of any of the following events, that is to say:

(a) the acceptance by such officers of an offer of transfer to the service of, and permanent employment with, the Commission made in pursuance of sub-article (8); or

(b) the revocation by the Prime Minister of any direction made by him under this article in relation to such officers.

(3) Where a direction as aforesaid is revoked by the Prime Minister in relation to any officer, the Prime Minister may, by further direction, detail such officer for duty with the Commission in such capacity and with effect from such date as may be specified in the further direction, and the provisions of sub-article (2) shall apply to the duration of the said further direction in relation to such officer.

(4) When a public officer is detailed for duty with the Commission under any of the provisions of this article, such officer shall, during the time the direction has effect in relation to him, be under the administrative authority and control of the Commission, but he shall for other intents and purposes remain, and be considered and treated as, a public officer.

(5) Without prejudice to the generality of the foregoing, a public officer detailed for duty as aforesaid:

(a) shall not during the time while such officer is so detailed:

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at the date on which he was detailed for duty; or

(ii) be so employed that his remuneration and

conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date he was detailed for duty as aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Commission; and

(b) shall be entitled to have his service with the Commission considered as service with the Government for the purpose of any pension, gratuity or benefit under the Pensions Ordinance and the Widows' and Orphans' Pension Act, and of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, if it were not for the fact that he is detailed for duty with the Commission. Cap. 93.
Cap. 58.

(6) Where an application is made as provided in sub-article (5)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for duty with the Commission.

(7) The Commission shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Commission, as aforesaid, during the period in which he is so detailed.

(8) The Commission may offer to any public officer detailed for duty with the Commission under sub-article (2) permanent employment with the Commission at a remuneration and on terms and conditions specified in the offer.

(9) Every public officer who accepts permanent employment with the Commission offered to them pursuant to this article shall, for all purposes other than those of the Pensions Ordinance and the Widows' and Orphans' Pensions Act, cease to be in the service of the Government and shall enter into service with the Commission with effect from the date of his acceptance of the offer, or such other date as may be agreed upon between him and the Commission. For the purposes of the said Ordinance and Act, service with the Commission shall be deemed to be service with the Government: Cap. 93.
Cap. 58.

Provided that for the purposes of the said Pensions Ordinance, the pensionable emoluments of such officer on retirement shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at an incremental level corresponding to the post and incremental level at which the officer retires from the Commission. Cap. 93.

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Contracts of
supply, works or
services.
S.L. 601.03.

50. The Commission shall follow procurement procedures as regulated by the Public Procurement Regulations or any amendment thereto.

PART VII
FINANCIAL PROVISIONS

Finance.

51. (1) The House of Representatives shall ensure that the Commission shall at all times have an adequate budget to properly perform its functions.

(2) The remuneration and allowances payable to the Commissioner and to all the members of the Commission shall be established by the House:

Provided that such remuneration and allowances shall not be reduced during the Commission's term of office:

Provided further that the Commissioner shall hold office on a full-time basis, and the Commissioner and the members of the Commission shall be granted sufficient remuneration that reflects the level of commitment and responsibilities required of them under this Act.

(3) At least three (3) months prior to the end of every financial year, the Commission shall present to the House the financial plan and the action plan for the ensuing financial year. When approved by the House, such plan shall be the approved budget of the Commission.

(4) The finance required for the remuneration of the Commissioner, the members of the Commission, for the salaries of its officers and employees, and for all its other expenses and resources for the performance of its functions and duties shall not exceed the maximum amount indicated in the budget.

(5) The House shall not reduce the approved budget of the Commission, unless a general reduction is envisaged for all similar entities within that year's national budget:

Provided that where such reduction is envisaged, it shall not be higher than the average reductions of all similar entities in that budget.

(6) The Commission shall, as far as possible, utilise the funds in a balanced manner between its mandates under this Act.

(7) The financial year of the Commission shall be for a period of twelve (12) months ending on the 31st of December of each calendar

year:

Provided that the first financial year of the Commission after the coming into force of this Act shall commence on the date of the coming into force of this Act and shall end on the 31st of December of the following year.

52. The finances approved by the House for the expenses of the Commission shall be a charge on the Consolidated Fund without any further appropriation other than under this Act. Expenses of the Commission.

53. (1) The Commission shall keep proper accounts of its income and expenditure and shall prepare and send to the House of Representatives statements of accounts in relation to each of its financial years. Accounts.

(2) The accounts of the Commission shall be audited by the Auditor General and the Public Finance Management Act shall apply. Cap. 601.

PART VIII Miscellaneous

54. The Minister may make regulations to give better effect to the provisions of this Act and to regulate, in general, equality in conformity with the provisions of this Act. Power of the Minister to make regulations.

55. The Equality for Men and Women Act, the Access to Goods and Services and their Supply (Equal Treatment) Regulations, the Procedure for Investigation Regulations, the Exercise of Rights Conferred on Workers (Freedom of Movement) Regulations, and the Promotion of Gender Balance among Directors of Listed Companies Regulations are hereby repealed without prejudice to anything done or omitted to be done thereunder. Repeal and saving.
Cap. 456.
S.L. 456.01.
S.L. 456.02.
S.L. 456.03.
S.L. 456.04.

56. (1) After the coming into force of this Act, there shall be a transitory period during which the National Commission for the Promotion of Equality for Men and Women established under the Equality for Men and Women Act shall transition into the Commission, in accordance with sub-article (3). Transitory period.
Cap. 456.

(2) Without prejudice to the provisions of sub-article (4), during the said transitory period, the National Commission for the Promotion of Equality for Men and Women shall continue operating until its functions are transferred to the Commission.

(3) During this transitory period, the relevant provisions of this Act shall come into force in the following order and on such dates as the Minister may by notice in accordance with article 1(2) establish:

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(a) the appointment of the Commission;

(b) the recruitment of the Executive Director, after which, the members and staff of the National Commission for the Promotion of Equality for Men and Women, shall be transferred to the Commission, with the exception of the Executive Director; and

(c) the powers of the Commission.

Cap. 456. (4) After the coming into force of this Act, the National Commission for the Promotion of Equality for Men and Women, shall cease accepting or investigating new complaints in accordance with article 17 of the Equality for Men and Women Act:

Cap. 456. Provided that the National Commission for the Promotion of Equality for Men and Women shall continue to investigate and conclude any pending investigations before it on that date, and the relevant provisions in the Equality for Men and Women Act shall remain applicable to such pending investigations and to any legal proceedings instituted on the basis of the said Act, and the provisions of this Act shall not apply to those investigations and procedures.

(5) Any reference to the National Commission for the Promotion of Equality for Men and Women in any law shall be construed as a reference to the Commission.

Transfer of staff. **57.** (1) Every person, with the exception of the Executive Director, who immediately before the coming into force of this Act was an employee of the National Commission for the Promotion of Equality for Men and Women shall, in accordance with the provisions of article 56(3)(b), be an employee of the Commission.

(2) The employees referred to in sub-article (1) shall not be brought to less favourable terms and conditions than the terms and conditions of service relating to remuneration to which the employees were subject immediately before that day:

Provided that any collective agreement negotiated with any trade union or professional organisation in this regard shall continue to apply.

PART IX

Consequential Amendments

Consequential amendment to the Constitution of Malta.

58. The Constitution of Malta shall be amended as follows:

(a) immediately after article 64A thereof there shall be

added the following new article:

"National
Commission for
Human Rights and
Equality.

64B. (1) There shall be a Commission, known as the National Commission for Human Rights and Equality, responsible to Parliament, and it shall have the functions of promoting and protecting human rights and the right to equal treatment and non-discrimination, with impartiality and independence.

(2) The manner of appointment and term of office of the Commissioner and the members of the National Commission for Human Rights and Equality, together with any other matter ancillary or incidental thereto, or considered necessary or expedient for the carrying out of the functions mentioned under sub-article (1), shall be regulated by Act of Parliament.

(3) The Commissioner and members of the National Commission for Human Rights and Equality shall not be removed from their office except by the President of the Republic acting on an address of the House supported by the votes of not less than two-thirds (2/3) of its members, on grounds of proven incapacity to perform the functions of their office or misconduct.";

(b) in the Arrangement of Articles immediately after the words "64A. Office of Ombudsman" there shall be added the words "64B. National Commission for Human Rights and Equality";

(c) in paragraph (b) of sub-article (2) of article 66 thereof the words "60, 61 and 64A" shall be substituted by the words "60, 61, 64A and 64B".

59. The European Convention Act shall be amended as follows:

(a) article 2 thereof shall be amended as follows:

(i) the definition "Convention" shall be substituted by the following new definition:

" "Convention" means the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on the 4th November, 1950 and the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Twelfth Protocols thereto signed in Paris on the 20th March 1952 and in Strasbourg on the 6th May 1963, 6th May 1963, 16th September

Consequential
amendments to
the European
Convention Act.
Cap. 319.

1963, 20th January 1966, 18th April 1983 and 22nd November 1984, and in Rome on the 4th November 2000, respectively;"

(ii) the definition "Human Rights and Fundamental Freedoms" shall be substituted by the following new definition:

" "Human Rights and Fundamental Freedoms" means those rights and freedoms as established in Articles 2 to 18 (inclusive) of the Convention and Articles 1 to 3 (inclusive) of the First Protocol, Articles 1 to 4 (inclusive) of the Fourth Protocol, Articles 1 and 2 of the Sixth Protocol and Articles 1 to 5 (inclusive) of the Seventh Protocol and Article 1 of the Twelfth Protocol to the Convention, which articles are reproduced in the First Schedule;"

(b) article 7 thereof shall be substituted by the following new article:

"Transitory provision.

7. No contravention of Articles 2 to 18 (inclusive) of the Convention or of Articles 1 to 3 (inclusive) of the First Protocol committed before the 30th April 1987 or of Articles 1 to 4 (inclusive) of the Fourth Protocol, Articles 1 and 2 of the Sixth Protocol or of Articles 1 to 5 (inclusive) of the Seventh Protocol committed before the 1st April 2002 or of Article 1 of the Twelfth Protocol committed before the 1st April 2016, shall give rise to an action under article 4.";

(c) immediately after Article 5 under the heading "Articles 1 to 5 of the Seventh Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms." there shall be added the following new heading and article:

"Article 1 of the Twelfth Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

Article 1 – General prohibition of discrimination.

1. The enjoyment of any right set forth by law 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.

2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1."

60. In Part A of the First Schedule to the Ombudsman Act immediately after the words "The Commission for the Administration of Justice" there shall be added the words "The National Commission for Human Rights and Equality."

Consequential amendment to the Ombudsman Act. Cap. 385.

SCHEDULE
(article 2)

Non-exhaustive List of Laws Containing Provisions on the Right to Equal Treatment and Non-discrimination

Constitution of Malta
Cap. 16 – Civil Code
S.L. 217.14 – Minimum Standards on Sanctions and Measures against Employers of Illegally Staying Third-Country Nationals Regulations
Cap. 254 – Postal Services Act S.L. 254.01 – Postal Services (General) Regulations
S.L. 260.03 – Prisons Regulations
Cap. 319 – European Convention Act
S.L. 327.02 – Teachers (Code of Ethics and Practice) Regulations
Cap. 350 – Broadcasting Act S.L. 350.17 – Requirements as to Standards and Practice applicable to Disability and its Portrayal in the Broadcasting Media S.L. 350.18 – Requirements as to Standards and Practice applicable to the Family Viewing and Listening S.L. 350.26 – Requirements as to Standards and Practice on the Promotion of Racial Equality
Cap. 413 – Equal Opportunities (Persons with Disability) Act

<p>Cap. 452 – Employment and Industrial Relations Act S.L. 452.79 – Part-Time Employees Regulations S.L. 452.81 – Contracts of Service for a Fixed Term Regulations S.L. 452.82 – Posting of Workers in Malta Regulations S.L. 452.91 – Protection of Maternity (Employment) Regulations S.L. 452.95 – Equal Treatment in Employment Regulations S.L. 452.97 – Extension of Applicability to Service with Government (Part-Time Employees) Regulations S.L. 452.99 – Extension of Applicability to Service with Government (Contracts of Service for a Fixed Term) Regulations S.L. 452.100 – Extension of Applicability to Service with Government (Equal Treatment in Employment) Regulations S.L. 452.102 – Extension of Applicability to Service with Government (Parental Leave Entitlement Regulations and Urgent Family Leave Regulations) Regulations S.L. 452.125 – Work-Life Balance for Parents and Carers Regulations S.L. 452.133 – Temporary Agency Workers Regulations S.L. 452.172 – Equal Pay (Transparency and Reporting) Regulations</p>
<p>Cap. 455 – Sports Act S.L. 455.13 – Anti-Doping Regulations</p>
<p>S.L. 460.15 – Equal Treatment of Persons Order S.L. 460.16 – Equal Treatment in Self Employment and Occupation Order S.L. 460.17 – Free Movement of European Union Nationals and their Family Members Order</p>
<p>S.L. 499.56 – Passenger Transport Services Regulations</p>
<p>Cap. 525 – Mental Health Act</p>
<p>Cap. 527 – Protection of the Whistleblower Act</p>
<p>Cap. 540 – Gender Identity, Gender Expression and Sex Characteristics Act</p>
<p>Cap. 567 – Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act</p>
<p>Cap. 581 – Gender-Based Violence and Domestic Violence Act</p>

<p>S.L. 582.02 – Social Regulatory Standards on Residential Services for Persons with Disability Regulations</p> <p>S.L. 582.03 – Social Regulatory Standards on Respite Services for Persons with Disability Regulations</p> <p>S.L. 582.04 – Social Regulatory Standards on Day Centre Services for Persons with Disability Regulations</p> <p>S.L. 582.09 – Social Regulatory Standards for High Dependency Chronic Care Services for Older Persons Regulations</p> <p>S.L. 582.15 – Social Regulatory Standards for Residential Services for Senior Citizens Regulations</p>
<p>Cap. 627 - United Nations Convention on the Rights of Persons with Disabilities Act</p> <p>S.L. 627.03 – Accessibility Measures (European Accessibility Act) Regulations</p>

Objects and Reasons

The objects and reasons of this Bill are firstly, to establish for the first time a National Commission for Human Rights and Equality in accordance with the Principles relating to the Status of National Institutions (The Paris Principles) and to grant it broad powers to safeguard the dignity and rights of the individual, to regulate its independent and impartial operation and consolidate relevant laws and regulations under a single Act, to repeal the Equality for Men and Women Act (Cap. 456), and to introduce into Maltese law for the first time Article 1 of the Twelfth Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, thereby providing the individual with greater protection against any form of discrimination.

