

134. L-Onorevoli Kristy Debono, l-Onorevoli Claudette Buttigieg u l-Onorevoli Mario de Marco jipproponu:

L-Ewwel Qari tal-Abbozz ta' Ligi msejjaħ Att tal-2014 li jemenda l-Kostituzzjoni ta' Malta.


09.05.14

Abbozz ta' Liġi msejjah

ATT biex jemenda l-Kostituzzjoni ta' Malta.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2014 li jemenda l-Kostituzzjoni ta' Malta.
2. (1) Dan l-Att jemenda l-Kostituzzjoni ta' Malta u għandu jinqara u jinftiehem haġa waħda mall-Kostituzzjoni ta' Malta, hawn iżjed 'il quddiem imsejha "l-Kostituzzjoni".

(2) Id-disposizzjonijiet ta' dan l-Att għandhom jiġu fis-seħħ 
3. Minnufih wara subartikolu (5) ta' artikolu 41 tal-Kostituzzjoni, għandu jidhol dan is-subartikolu ġdid li ġej:

Zieda ta'
subartikolu
(6) ġdid ma' l-
Artikolu 41 tal-
Kostituzzjoni

“(6) Hadd ma għandu jiġi pprivat milli jaċċessa u juża servizzi u applikazzjonijiet kif ukoll milli jgħassam u jwassal informazzjoni permezz ta' teknoloġiji tal-informatika u tal-komunikazzjoni, inklużi *networks* ta' komunikazzjonijiet elettronici, irrispettivament mill-mezzi u frontieri.”

4. *Minnufih wara* artikolu 45 tal-Kostituzzjoni, għandu jidhol dan l-artikolu ġdid li ġej:
45

Zieda ta' artikolu
45A ġdid ma' l-
Kostituzzjoni

“45A. (1) Hadd ma għandu jiġi pprivat mid-dritt tal-privatezza.

(2) Hadd ma għandu jiġi pprivat mid-dritt għall-awto-determinazzjoni tal-informazzjoni.

(3) Ebda haġa li hemm fi jew magħmula skont l-awtorità ta' xi liġi ma għandha titqies li tkun inkonsistenti ma' jew bi ksur ta' dan l-artikolu safejn dik il-liġi tagħmel provvediment li jkun meħtieġ raġonevolment –

(a) fl-interess tad-difiża, sigurtà pubblika, ordni pubbliku, moralità jew deċenza pubblika, jew saħħa pubblika; jew

(b) sabiex jiġu protetti d-drittijiet jew libertajiet ta' persuni oħra,

u hlief safejn dak il-provvediment jew, skont il-każ, il-haġa magħmula skont l-awtorità tiegħu hija murija li ma tkunx

gustifikabbli raġonevolment f' soċjetà demokratika.”

5. L-artikolu 46 tal-Kostituzzjoni għandu jiġi emendat kif ġej:

Emenda ta' l-
Artikolu 46 tal-
Kostituzzjoni

(a) fis-subartikolu (1), minflok il-kliem “tal-artikoli 33 sa 45”
għandhom jidhlu l-kliem “tal-artikoli 33 sa 45A”;

(b) fis-subartikolu (2), minflok il-kliem “tal-artikoli 33 sa 45”
għandhom jidhlu l-kliem “tal-artikoli 33 sa 45A”;

(c) fis-subartikolu (3), minflok il-kliem “tal-artikoli 33 sa 45”
għandhom jidhlu l-kliem “tal-artikoli 33 sa 45A”;

Għanijiet u Raġunijiet


L-għanijiet prinċipali ta' dan l-Abbozz ta' Liġi huma biex idahhlu fil-Kostituzzjoni, bhala drittijiet infurzabbli, d-drittijiet privatezza u tal-awto-determinazzjoni tal-informazzjoni u sabiex jirrikonoxxu u jipproteġu t-teknoloġiji tal-komunikazzjoni u tal-informatika, inkluzi *networks* tal-komunikazzjoni elettronniċi, bhala għodod għat-tgawdija tad-dritt fundamentali ta' l-espressjoni, permezz tar-rikonoxximent u protezzjoni tad-dritt ta' aċċess għall-infrastrutturi, tad-dritt għall-aċċess tal-informazzjoni permezz tat-teknoloġiji tal-komunikazzjoni u tal-informatika, tad-dritt ta' tqassim u twassil ta' informazzjoni permezz tat-teknoloġiji tal-komunikazzjoni u tal-informatika u biex jirregola r-restrizzjonijiet ta' dawn id-drittijiet.

**A BILL
Entitled**

AN ACT to amend the Constitution of the Republic of Malta.


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

1. The short title of this Act is the Constitution (Amendment) Act, 2014.
2. (1) This Act amends the Constitution of the Republic of Malta, and it shall be read and construed as one with the Constitution of the Republic of Malta, hereinafter in this Act referred to as "the Constitution".

(2) The provisions of this Act shall come into force .
3. Immediately after subarticle (5) of Article 41 of the Constitution, there shall be added the following new subarticle:

Insertion of new subarticle (6) in Article 41 of the Constitution

“(6) No person shall be deprived from accessing and using services and applications as well as sharing and imparting information through information and communication technologies, including electronic communications networks, regardless of medium and frontiers.”

4. ^{Immediately} ~~after~~ Article 45 of the Constitution, there shall be added the following new article: 

Insertion of new Article 45A of the Constitution

“**45A.** (1) No person shall be deprived of his right to privacy.

(2) No person shall be deprived of his right to informational self-determination.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision that is reasonably required -

(a) in the interests of defence, public safety, public order, public morality or decency, or public health; or

(b) for the purpose of protecting the rights or freedoms of other persons,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.”

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

Amendment of
Article 46 of the
Constitution

(a) in subarticle (1) thereof, for the words “articles 33 to 45” there shall be substituted the words “articles 33 to 45A”;

(b) in subarticle (2) thereof, for the words “articles 33 to 45” there shall be substituted the words “articles 33 to 45A”; and

(c) in subarticle (3) thereof, for the words “articles 33 to 45” there shall be substituted the words “articles 33 to 45A”.

Objects and Reasons

The objects of this Bill are to introduce, as enforceable rights, the right to privacy and the right to informational self-determination and to recognise and protect information and communication technologies including electronic communications networks as a tool for the enjoyment of the fundamental right of freedom of expression, through the recognition and protection of the right of access to the underlying infrastructures, the right of access to information through information and communication technologies including electronic communications networks and the right to share and impart information through the use of information and communication technologies including electronic communications networks, and to regulate the restrictions of such rights and ensure judicial protection.