

46A (1) Protection of right to education and upbringing.

Parents, and where applicable, legal guardians, shall have the freedom to:-

(a) choose for their children, schools other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the state;

(b) ensure that the education and upbringing of their children shall be in conformity with their own convictions.

(2) Whilst the Government of Malta shall have the right to establish reasonable minimum educational standards for all schools, every citizen of Malta, the Catholic church or any other voluntary society, religious or otherwise, of a non profit making character shall have the right to establish, maintain and direct educational institutions subject to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the Government of Malta under any law for the time being in force in Malta.

46B Protection of family life.

Every person has the right to respect for his private and family life.

There shall be no interference by a public authority with the exercise of the right except such as is accordancy with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of the rights and freedom of others.

KOMMENTI MILL-MEMBRI TA' L-OPPOZIZZJONI

Din il-proposta (a) tagħti d-dritt lil-familja b'ie tagħzel għal uliedha li ssejjelet li jidurha l-oħra għalhom. (b) tagħti d-dritt lil kull cittadin li tkun inrispettata l-oħra privata tiegħu u tal-familja tiegħu minbarra fil-kaz fejn ikun irid jgħid li għajet li jkunu necessarji f' socjeta demokratika fil-interess tas-sigurtà nazzjonali, etc. Dwar l-ewwel proposta, il-Membri socialisti sostnu li innull jkollok id-dritt ta tagħzel skola għal uliedek jekk ma jkollok id-dritt tiegħu wkoll li l-iskola tkun mingħajr bias, għax ma tkun dritt xejn għal kull cittadin - hu

dritt biss ghal min hu sinjur. Ghalhekk nabsu li din il-proposta ghandha sieg wahda u zoppa. M'hemm ghalfein insemmu li din il-proposta gatt ma giet diskussa fil-Kumitat Maghzul.

Dwar it-tieni proposta inhossu li gabel ma jkun hemm idejat cari xi jfiseru l-kliem "ligijiet maghmula skond in-nessita ta' soċjeta demokratika fl-interess tas-sigurta nazzjonali" provediment bhal dan fil-kostituzzjoni m'hu se jaghmel xajn gdid fil-pajjiz hief johloq aktar konfuzjoni fil-Qrati taghna u aktar sejdha JLLI-Magistrat jew l-Imhallee li jaqta' w jiddeciedi skond il-fehmiet tieghu personali - haga li fl-istat avvanzat ta-civilta' f-pjizna ghandha lonqas u mhux tiddied.

18.6) PROPOSTA GDIDA MILL-MEMBRI TAL-GVERN

(X ghandu jeghleb il-kostituzzjoni ta' Malta jew il-konvenzjoni ta' l-Ewropa?)

Amendment to section 47 of the principal law

- 1) Subsection (7) of section 47 of the principal law shall be deleted.
- 2) Immediately after subsection 9 of section 47 of the principal Act add the following new subsection -

"(10) The provisions of Act XIV of 1987 known as the European Convention Act, shall have the same effect as sections 33 to 45 (inclusive) of this chapter, provided that should anything contained in the provisions of Act XIV of 1987 be inconsistent with anything contained in sections 33 to 45 (inclusive) of this Chapter, the provisions more favourable to the person (or the citizen of Malta, as the case may be) shall prevail."

KUMMENTI MILL-MEMBRI TAL-L-OPPOZZIZZJONI

Kif jidher car minn din l-emenda li membri tal-Gvern m'hemmx konvinti bhal ma kienu meta dabbju l-European Convention Act 1987 bhala ligi li din il-convention hija aktar tajba ghar-cittadin milli li nsistew li din il-convention ghandha twarrab il-kostituzzjoni.

Issa minflok li qdew id-dmij maghhom li jemendaw il-ligi ta' Malta reth wshed jahseb u jaqbel li tista tkun ahjar. Gheghu din l-emenda ma nigtentja biev xi hadd ghal KUMITAZZJONI tas-sinjura ta' Malta u ghal tal-Ewropa jiddeciedi liema tkun l-ahjar ghadzel. Jtema wahda ta-favori ta' l-akta

lic-cittadin Malti, il-konvenzjoni ta' l-Ewropa jew il-kostituzzjoni ta' Malta.

Ahna nsostnu li l-Parlament Malti ghandu jibdel il-kostituzzjoni fejn jidhirlu li jista' jtejjibha. Biex jagħmel bhal ta' l-Ewropa, jrid l-ewwel jifhem f'hekk ta' l-Ewropa hi ahjar u mbagħad isewwi tagħna kif jifhem hu li tkun ahjar. M'ahniex pappagalli, l-anqas makni tar-ritratti.

Din il-proposta li tgħid ukoll li l-ligijiet ta' Malta huma 'saved' fil-kostituzzjoni, u ma jaqblux mal-konvenzjoni Ewropeja jaqghu f'daqqa, se tkun kontra d-decizjoni li ha l-kumitat unanimament, li dan għandu jsej mill-Parlament Malti billi jemendahom waħda wara l-oħra mbasta ma jdumx aktar minn sentejn.

Il-Membri Soċjalisti ma ngħataw l-ebda spjegazzjoni għaliex f'daqqa waħda l-Membri tal-Gvern intebhu li jista' jsej dan il-miraklu.

KONKLUZZJONI (tar-Rapport Preliminari)

Huwa veru li dan il-Kumitat ma temmx ix-xogħol tiegħu kollu fiz-zmien mogħti lilu mill-Parlament. Kien hemm zewg ragunijiet. L-ewwel, il-bżonn li r-rakkommandazzjonijiet fuq istituzzjonijiet godda jigu miflija bl-akbar reqqa u serjeta'. It-tieni, l-htiega li l-Esekuttivi tal-Partiti u Gruppi Parlamentari rappreżentati fil-Parlament jingħatahom iz-zmien biex jiflu huma wkoll dak li sħarreg dan il-Kunsill.

Il-Kumitat izda jhoss li x-xogħol li sar biex isir tibdil li jhalli jidwaqqu istituzzjonijiet godda huwa mportanti hafna - bħall-Kunsill ta' l-Istat, il-Kunsill tad-Difiza u l-Kunsill għall-Amministrazzjoni Gudizzjarja - u halli tissahħah bil-hafna l-istituzzjoni tal-Parlament, jiggustifika dan id-dewmien. Il-Kumitat jawgura li l-partiti politici jkollu bl-akbar serenita' dawn ir-rakkommandazzjonijiet biex id-demokrazija jkollha nqegħduha fuq sisien aktar sodi sabiex il-koll flimkien ngħozzu u nħarsu l-helsien.

KOMMENTI MILL-MEMBRI TA' L-OPPOTIZZJONI

Meta wieħed jaqra x kien gie decisi mill-Kumitat Magħzuli sabiex unanimament jessaq ir-Rapport Preliminari tal-Parlament, u meta wieħed jara x inhuwa l-Proposta tal-Membri tal-Gvern il-lum, wieħed jista' jasal biss għall-

konkluzzjoni li s-sisien ta' prinzipji demokratici, li fuqhom kien minni spari xew ghal kollo.

Dan il-fattukien ikun biz-zajjed b'ieq jeqned ghal kollo kull cans li kien hemm, kif bdejna dan ix-xoghol, li ngħaddu flimkien in-Nazzjon Malti għal haġja demokratika parlamentari ferm sħiqa minn tal-lum.

Il-Membri Socialisti sostnew mill-bidu nett li b'ieq isehh dak li gie magħul unanimament fl-ewwel Rapport kien hemm li-htiega li xi problemi kbir nazzjonali, li vidhru fil-minuta tal-laqgħat u li gew diskussi fit-tul jinstabilhom soluzzjoni accettabbli għas-sweg nahat.

Dan ma sehhx, għal kuntrari, li l-attaridiet mill-hazin marru għall-agħar, il-lum minflok il-klima mwegħda tar-rikonrijazzjoni, li fiha setgħet nibtet iz-zerriegħa ta' istituzzjonijiet godda li kif konna qbilna flimkien unanimament għandhom izejru il-haġja demokratika tal-Maltin, il-lum għandna l-pika, il-kontrasti u l-konflitti.

Ma rridux inwaqqghu l-għieh tal dan ir-rapport billi nsemmu l-modibax, li bih il-Prim Ministru nazzjonalista attakkaha ngħustament li ahna, il-Membri Socialisti, ma wrajnax volonta' li nispjicaw ix-xogħol magħti liina mill-Parlament. Min ma dan ir-rapport jlebu l-parenzia taqra l-minuti, jirtebah li ahna għamilna aktar minn sehemna u ma kien hemm lebda dewmien minn qanana taqna.

Imma min jrid prova ta' min hu' hat, għad li-takwies kbir, li għandna l-parenzia il-lum, biz-zajjed ikun hat li warru ta' appost għadu sejer magħul il-Kumitat Magħzuli u l-Prim Ministru jgħidli jressaq quddiem il-Parlament b'urgenza li qd li jnehm il-Sinjura Marzu minn Jum Nazzjonali u jgħidliha se jgħid ta' Settembru.

Dannu sar apposta b'ieq minni jtehemma ma jsehb' se jgħidliha se jgħid ta' Settembru, li ahna jhossuna jgħidliha se jgħid ta' Settembru, li ahna jgħidliha se jgħid ta' Settembru, li ahna jgħidliha se jgħid ta' Settembru.

Jeff 11 ta' Janzja 1988

11 ta' Janzja 1989

SECTION 23

Amendment to section 23 of the principal act

In section 23 of the principal act the word "woman" whenever it occurs shall be substituted with the word "person".

SECTION 26

Amendment to section 26 of the principal law

In section 26 of the principal law the word "women" shall be deleted and substituted by the word "person".

SECTION 41

Amendment of Section 41 of the principal law

Section 41 of the principal law shall be amended as follows:-

- (1) In subsection (1) of section 41 of the principal act the following words shall be inserted immediately after the words "ideas and information without interference:

"and whether the communication be by means of the press, radio, television or by any means used for the communication of ideas and information."

- (2) in sub-paragraph (a) of sub-section (3) thereof the words "twenty-one" shall be deleted and substituted with the word "eighteen"
- (3) immediately after sub-section (5) thereof there shall be added the following new sub-section (6):

"(6) Any persons who is a citizen of Malta and ordinarily resident in Malta may operate a radio and/or a television broadcasting station.

Provided that provision may be made by law:-

- (a) prohibiting or restricting the running of a radio and/or television station by anyone who is under eighteen years of age;

- (b) ensuring that any person operating a radio and/or television broadcasting station is able to fulfil his obligations according to law and in particular to secure compliance with all directions of the Broadcasting Authority issued in accordance with the powers granted to it by this law or by any other law for the time being in force;
- (c) ensuring compliance with the directives issued by the Wireless Telegraph Office or by the Broadcasting Authority in virtue of any law in force regarding quality and power of transmission as may be reasonably required to regulate broadcasting in Malta;
- (d) ensuring compliance with such other directives issued by the Broadcasting Authority in virtue of any law in force as may be reasonably required to safeguard:-
 - (i) a correct balance between different types of programmes;
 - (ii) minimum number of programmes to be of Maltese origin;
 - (iii) maximum advertising time allotted;
 - (iv) minimum time allotted to news and news features;
 - (v) protection of religious sentiment, good taste and decency;
 - (vi) prohibition of incitement to crime or disorder;

(vii) prohibition of monopolises in favour of any radio and/or television station or any group thereof".

- (4) Immediately after sub-section (6) thereof there shall be added a new subsection as follows:-

Saving the provisions of sections 65(3) of this Constitution no law shall make any provision which exempts the Government of Malta, any authority established by the Constitution, any public authority established by or under any law, any partnership or other body in which the Government of Malta or any such body as aforesaid have a controlling interest or over which they have effective control, or any officer, member, employee or dependent of any of the aforesaid, from the provisions of any law relating to libel and slander and in general, of any law protecting the reputation of others.

SECTION 45

Amendment to section 45 of the principale law

- (1) In subsection (3) of the principale law after the words "political opinion, colour" there shall be inserted the word "sex"

SECTION 45 A

Introduction of new section

Immediately after section 45 of the principle law a new subsection to be numbered 45A is to be introduced as follows:-

- 45A (1) Every person shall have the right to establish on his request whether a public authority has data relating to him, and to have those data communicated to him within a reasonable time, at a reasonable charge and in an intelligible manner.
- (2) The collection of personal data by any public authority shall be accurate, fair and up-to-date. Personal data shall be safeguarded from loss and from unauthorised access, use, modification or disclosure.
- (3) Every person shall have the right to ensure that incorrect or insufficient data relating to him are corrected, modified or updated.
- (4) the rights referred to in subsections (1), (2) and (3) of this section shall be regulated by law.

- (5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsections (1), (2) and (3) of this section to the extent that the law in question makes provision that is reasonably required in the interests of defence, public safety and public order or for the protection of the rights and freedoms of others 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.

SECTION 46

Amendment to section 46 of the principle law

- (1) In subsection (2) of section 46 of the principal act the following shall be inserted after the words "the person concerned is entitled."

"The Court may, for the purposes of this subsection, order the payment of compensation for non-pecuniary damages in favour of the person in relation to whom the contravention referred to in subsection (1) of this section was committed."

- (2) Immediately after subsection (7) of section 46 of the principle law add the following new subsection.

"(8) No person shall be deprived of, or hindered in his right to petition the European Commission of Human Rights established by the European Convention on Human Rights (1950) in accordance with Article 25 of that Convention. For the purposes of Article 46 of that Convention, the compulsory jurisdiction of the European Court of Human Rights, is hereby recognised."

SECTION 46A & B

Introduction of new section to the principal law

Immediately after section 46 of the principal law the following new section to be numbered 46A & 46B shall be introduced:-

46A (1) Parents, and where applicable, legal guardians, shall have the freedom to:-
Protection of right to education and upbringing

- (a) Choose for their children, schools other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the state;
 - (b) ensure that the education and upbringing of their children shall be in conformity with their own convictions.
- (2) Whilst the Government of Malta shall have the right to establish reasonable minimum educational standards for all schools, every citizen of Malta, the Catholic church or any other voluntary society, religious or otherwise, of a non profit making character shall have the right to establish, maintain and direct educational institution subject to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the Government of Malta under any law for the time being in force in Malta.

46B Every person has the right to respect from his private
Protection and family life.

of family
life

These shall be no interference by a public authority with the exercise of the right except such as is in accordancy with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or moral or for the protection of the rights and freedom of others.

SECTION 47

Amendment to section 47 of the principle law

(1) Subsection (7) of section 47 of the principal law shall be deleted.

(2) Immediately after subsection 9 of section 47 of the principle Act add the following new subsection:-

"(10) The provisions of Act XIV of 1987 known as the European Convention Act, shall have the same effect as sections 33 to 45 (inclusive) of this Chapter; provided that should anything contained in the provisions of Act XIV of 1987 be inconsistent with anything contained in sections 33 to 45 (inclusive) of this Chapter, the provisions more favourable to the person (or the citizen of Malta, as the case may be) shall prevail."

SECTION 48

Amendment to section 48 of the principal law

(1) Subsection (1) of section 48 of the principal law shall be deleted and substituted with the following new subsection:-

"(1) There shall be a President of Malta who shall be appointed in accordance with the following procedure:-

(a) any person may be nominated as President of Malta provided his nomination is in writing is proposed by at least fifteen Members of Parliament and is accepted in writing by the nominee. A member of Parliament may not propose more than one person;

(b) the election of the President of Malta shall be made by the House of Representatives by secret ballot and no person shall be declared elected unless he secures the votes of not less than two-thirds of all the members of the House;

(c) should no person achieve the majority required in sub-paragraph (b) after three ballots have been taken, then the House of Representatives shall by Resolution appoint as President of Malta any person it may deem fit even though such person was not previously nominated in terms of subparagraph (a) above.

- (2) In Sub-paragraph (b) of subsection 3 of section 48 of the principle law the words "by Resolution of the House of Representatives" shall be deleted and substituted by the following:

"in accordance with the procedure set out in the following subsection".

- (3) In Sub-paragraph (b) of subsection 3 of section 48 of the principle law after the words "or misbehaviour" there shall be added:

"or for failure to observe any duty or obligation imposed on him by this Constitution".

- (4) Immediately after subsection (3) of section 48 of the principle law the following new subsection:

"(4)The procedure to be followed for the removal of the President of Malta in terms of subsection (3) of this section shall be as follows.

- (a) the proposal to remove the President of Malta shall be approved by a Resolution of the House of Representatives clearly specifying the grounds for such removal.
- (b) on such Resolution being approved by the House of Representatives, the Clerk of the House of Representatives shall within three days cause a copy of such Resolution to be communicated to the Registrar of the Superior Courts and within three days of the receipt of such communication the constitutional Court shall, hold a public sitting to examine whether or not the facts alleged in the Resolution exist;

(c) the Constitutional Court in conducting the sitting shall regulate its own procedure and shall hear such evidence as it may deem fit;

(d) should the Constitutional Court find that the facts mentioned in the Resolution do in fact exist the office of President of Malta shall be declared to be vacant from the date of the judgment of the Constitutional Court.

SECTION 59

Amendment to section 59 of the principle law

- (1) In subsection (1) of section 59 of the principle law the following proviso shall be added:

"Provided that before the election of a Speaker is proceeded to the nomination shall be discussed in the Council of State with the aim of reaching agreement on the person to be proposed."

SECTION 60

Amendment to section 60 of the principle law

(1) In subsection (2) of section 60 the words "and who shall be appointed to that Office from the public service" shall be deleted.

(2) Subsection (3) thereof shall be deleted and substituted by the following new subsection.

"(3) The members of the Electoral Commission shall be appointed in accordance with section 97 of this Constitution."

SECTION 60 A & B

Addition of new section to the principle law

Immediately after Section 60 of the principle law there shall be added the following new sections to be numbered 60A and 60B.

60A (1) The Electoral Commission set up in accordance with the provisions of this Constitution shall be responsible for the conduct of general elections and national referendum, for the compilation of the electoral register and for the administration of the Electoral Office.

(2) Political parties shall be granted reasonable means of access to all records, documents and materials of the Commission for the purpose of verifying the work of the Commission and the Commission shall give to the political parties all such information as they may require regarding the execution of the responsibilities entrusted to it by this Constitution or by any other law.

(3) Political parties contesting general elections and national referenda shall be granted reasonable means of access to oversee and verify for themselves all the various phases leading up to a general election or referendum and the actual voting and counting process thereof provided that nothing in this provision shall prejudice the right of a voter to vote secretly. In particular, and without prejudice, to the generality of the above provision, political parties shall have the right:

- (a) to be given all information in connection with the printing and distribution of voting documents and ballot papers, the distribution of polling booths and instructions issued to all commission personnel, the lists of persons entitled to vote and all other information that the political parties may require in order to better be able to ensure that nothing irregular is undertaken during the poll;
- (b) to nominate at least one person to supervise the poll in each polling booth;
- (c) to nominate a sufficient number of party agents to oversee the sealing, transportation, opening, closing and storage of ballot boxes;
- (d) to be granted adequate facilities to be able to oversee the counting of votes, and to nominate a sufficient number of counters and supervisors to effect such counting;
- (e) to check and verify all papers and documents used by the Commission or its personnel prior or during the voting or prior or during the counting of votes and to be given copies thereof;

60B The Electoral Commission shall be
Electoral Office responsible for the Electoral Office and all expenses in connection thereto, including the payment of wages and salaries, shall be a burden on the Consolidated Fund and may be paid following a warrant signed by the Chief Electoral Commissioner addressed to the Treasurer and without any further appropriation other than this Constitution.

Provided that in appointing member of staff to the Electoral Office the Electoral Commission shall inform the political parties represented in parliament who it intends to appoint and shall give consideration to any serious objections raised by such parties regarding the competence and/or impartiality of the person to be so appointed.

SECTION 67A

Introduction of a new section in the principle law

67A (1) The House of Representatives shall have the
Permanent following Permanent Committees:-
Committee

of the House The committee on Foreign Affairs
Representatives The committee on Public Expenditure
The committee on Social Policy and Education
The committee on Economic and Industrial
Affairs
The committee on Broadcasting and
Telecommunications
The committee on Parliament and Legislative
Affairs.

- (2) The House of Representatives shall regulate the procedures and operations of the Permanent Committees of the House of Representatives subject to the provisions of this Constitution.
- (3) Each Permanent Committee shall be composed of an odd number of members not exceeding nine members and chosen in such manner as to secure that, so far as practicable, such Committee is so composed as to fairly represent the House.
- (4) Each Committee shall be appointed by the Speaker of the House of Representatives at a meeting called by him with the leaders of the political parties represented in the House of Representatives and following a call for nominations of member to the Committees.

- (5) Each Committee shall be presided by a Chairman who shall be appointed from amongst the members appointed by Government and such member shall have a casting vote besides an original vote.
- (6) It shall be the function of the Permanent Committees of the House of Representatives to:
 - (a) discuss, amend and approve at committee stage such bills as are referred to it by the House of Representatives;
 - (b) recommend legislation to the House of Representatives and to make recommendations on matters referred to it by government or Parliament;
 - (c) monitor the declared policies of the Government and to make recommendations thereon;
 - (d) in the exercise of its functions to invite any person it deems fit to give it information or advice.

SECTION 85

Amendment to section 85 of the principle law

- (1) Immediately after sub-paragraph (a) of the proviso of subsection (1) of section 85 of the following new sub-paragraph shall be added:-

"(f) in the exercise of the powers granted to him by section 97 of this Constitution."

CHAPTER
(After 94)

Introduction of new chapter in the principal law

The following new chapter, shall be introduced immediately after section 94 of the principal law:

CHAPTER VIII
Council of State

Council of State

- 95 (1) There shall be a Council of State to be composed of the
President of Malta, the Prime Minister and the
Leader of the Opposition.
- (2) The President of Malta shall call a meeting of the Council of State whenever he is required to do so by this Constitution.
- (3) The Council of State shall have the sole power of conferring by unanimous vote, decorations for service to the Republic of Malta.
- (4) The Council of State can function notwithstanding the absence of any of its members.

Councillors of the Republic

- 96 (1) Any citizen of Malta over the age of forty years may be appointed as Counsellor of the Republic provided his appointment is approved by a Resolution of the House of Representatives supported by not less than two thirds of all the members of the House of Representatives.
- (2) Not more than two persons may be appointed as Counsellors of the Republic in any one year and there may not be more than ten counsellors of the Republic.
- (3) The Counsellors of the Republic are to be consulted by the President of Malta whenever the President of Malta is so required to do by this Constitution.

Appointment of Commissions

- 97 (1) Without prejudice to sub section (8) of this section, whenever any member of members, including the Chairman, of any commission, body or authority established by this Constitution is to be appointed the President of Malta shall, within ten days of such vacancy occurring, call a meeting of the Council of State, for the purpose of discussing the appointment of the person or persons to be so appointed.
- (2) Should the Prime Minister and the Leader of the Opposition agree on the person or persons to be nominated then the President of Malta shall be obliged to nominate such person in the capacity indicated;

- (3) Should the Prime Minister and Leader of the Opposition not agree with regard to the appointment of the Chairman of any commission, board or authority established by this Constitution, then such Chairman shall be appointed by the President of Malta after he has, individually or collectively, consulted with the Counsellors of the Republic who are present in Malta and such appointment shall be made not later than seven days after the Prime Minister and the Leader of the Opposition fail to reach agreement.
- (4) Should the President of Malta fail to make such appointment within the time specified in the previous subsection such appointment shall be made by the Prime Minister not later than seven days after the end of the period allotted to the President of Malta and should the Prime Minister fail to make such appointment within the prescribed time then such appointment shall be made by the Leader of the Opposition.
- (5) Should Prime Minister and the Leader of the Opposition not agree with regard to the appointment of any member or members of any commission, body or authority established by this Constitution then all the members thereof shall be appointed by the President of Malta following the recommendation of the Prime Minister as to half the number thereof and the recommendation of the Leader of the opposition as to the other half.

- (6) The Prime Minister and the Leader of the Opposition shall make such recommendations within seven days of disagreement being registered in the Council of State provided that if either one fails to make the recommendation within the specified time the right to recommend shall be forfeited and shall pass to the other person;
- (7) The President of Malta shall issue the appointment of the members within three days of having received the recommendations of the Prime Minister and/or the Leader of the Opposition.
- (8) When the office of Chairman or member of any body, commission or authority becomes vacant during the ordinary course of appointment of the body, commission or authority concerned, such vacancy shall be filled by the President of Malta in accordance with the following procedure:
 - (a) if the person vacating the office has been appointed in terms of subsection (2) of this section the person to be appointed has to be similarly agreed to provided that if no agreement is reached the vacancy shall not be filled unless the vacancy regards the Chairman in which case the procedure laid down in subsections (3) and (4) is to be followed;
 - (b) if the person vacating the office has been appointed in terms of sub-section (3) of this section the procedure set out in subsections (3) and (4) of this section shall be followed;

- (c) if the person vacating the office has been appointed in terms of subsection (5) of this section the person who had originally made the recommendation shall make the recommendation.

98. Any, authority or commission provided for by this Constitution shall be deemed to have been validly set up even if the President of Malta fails to make the appointments in accordance with the previous section provided that at least half the members thereof, excluding the Chairman, have been nominated in terms of the previous section.

Continuity of service of commission etc.

99. The members, including the Chairman, of any commission, or authority appointed in terms of this Constitution shall continue in office after the period of office for which they have been appointed has elapsed until such time as new members have been appointed in terms of this constitution.

(5) It shall be the function of the Council for the Administration of Justice to:-

- (a) safeguard the independence of the judiciary, and the proper administration of justice;
- (b) to assign to specific courts or other adjudicating authorities prescribed by law, judges and magistrates according to their respective competences and to perform the distribution of duties in general;
- (c) appoint judges or magistrates to sit on any Board of Enquiries from time to time established by Parliament or by the Executive;
- (d) distribute equitably remunerative work or similar duties which according to law, have to be performed by any member of the judiciary;
- (e) authorise any member of the judiciary to accept any remuneration other than the official salary, and to limit or withdraw any such authorisation;
- (f) surrogate any judge or magistrate when such surrogation is required;

- (g) ensure, without interference in the decision making functions of the Court or other adjudicating authority prescribed by law, the expeditious administration of Justice;
- (h) make recommendations to the Minister for Justice for the improvement of the running of the Court Registry and of the administration of the Courts in general;
- (i) make rules, to be called Rules of Court, having the force of law, for any of the following purposes:-
 - (i) for carrying into effect the provisions of the Judicial Proceedings (Use of English Language) Act 1965.
 - (ii) for establishing any form not provided in the Code of Organisation and Civil Procedure.
 - (iii) for fixing the days, hours, duration and number of the sittings of the Courts, determining the manner of the distribution of causes among the judges and magistrates appointed to sit in a particular court.
 - (iv) for governing the conduct of the Courts and for securing and maintaining order and decorum within the building of the Courts.

- (v) generally for establishing practices and procedures with regard to judicial acts and the hearing of cases, not already provided for in the Code of Organisation and Civil Procedure or in other laws.
- (vi) for establishing the rules and procedures for the conduct of the elections referred to Sub-Section (3) of this Section.
- (vii) for carrying into effect the provisions of Article 46 (7) of this Constitution.

SECTION 109 (2)

Amendment of section 109 of the principal law.

- (1) Subsection (2) of section 109 of the principle law shall be substituted by the following new subsection.

"(2) The members of the Public Service Commission shall be appointed in accordance with section 97 of this Constitution.

- (2) Subsection (7) of section 109 shall be deleted.

Section 114A

Addition of new section to the principal law

Immediately after section 114 of the principal law the following new section to be numbered 114A shall be added:-

114A (1) Any citizen of Malta and any legal person in
Actio Malta who alleges that any person, officer,
Popularis commission or any other authority on whom this
Constitution imposes duties and obligations (not
being the duties and obligations referred to in
Chapters II, III, IV, V, VI and VIII), has failed
to

perform or fulfil such duties and obligations,
may apply to the Civil Court, First Hall, to
ensure that such duties and obligations are
expeditiously performed or fulfilled and any
plaintiff bringing such an action shall not be
required to show any personal interest in
support of his action.

- (2) The defendant or defendants in such action
may not plead any privilege or immunity
from the jurisdiction of the Court, nor any
protection from legal proceedings
established by this Constitution or by any
other law.
- (3) Any party to proceedings brought in the
Civil Court, First Hall, in pursuance of this
Section shall have a right to appeal to the
Constitutional Court. Such appeal shall be
made by application within six working days
from the decision appealed from.

- (4) The hearing of the action and appeal introduced in accordance with the provisions of this section shall take precedence over all other proceedings, and shall be determined with the utmost dispatch.
- (5) The Civil Court, First Hall, or the Constitutional Court, as the case may be, shall make such orders issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the fulfilment of any duty or obligation imposed by the constitution.

120B (1) These shall be a National Defence Council for
National Defence Council Malta with the functions of establishing the
policies to be followed in the defence and
security of the territory of Malta.

(2) The President of Malta shall be the Chairman of
the national Defence Council and the Prime
Minister, the Minister for Internal Affairs, the
Commissioner of Police and the Commanding
Officer of the Armed Forces shall be members.

