

MALTA

ATT Nru. VIII ta' l-1997

ACT No. VIII of 1997

ATT mahruġ b'ligi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

ATT biex jipprovdi ghat-twaqqif ta' Tribunal indipendenti għas-smiġħ ta' ilmenti ta' ċerti ingustizzji li għaw bejn l-1987 u l-1995.

AN ACT to make provision for the establishment of an independent Tribunal for the processing of complaints of certain injustices occurring between 1987 and 1995.

Naghti l-kunsens tiegħi.

(L.S.)

GUZE' CASSAR
Agent President

5 ta' Mejju, 1997

ATT Nru. VIII ta' l-1997

ATT biex jipprovdi għat-twaqqif ta' Tribunal indipendenti għas-smiġħ ta' ilmenti ta' ċerti ingustizzji li graw bejn l-1987 u l-1995.

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

1. Dan l-Att jista' jissejjah l-Att ta' l-1997 dwar it-Tribunal għall-
Investigazzjoni ta' Ingustizzji; u għandu jidhol fis-seħħ f'dik id-data li
l-Prim Ministru jista' jistabilixxi b'avviż fil-Gazzetta, u dati differenti
jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti u għal
għanijiet differenti ta' dan l-Att.

Titolu fil-qosor
u bidu fis-seħħ.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx
xort'ohra —

Tifsir.

“ingustizzja” għandha t-tifsira lilha mogħtija fl-artikolu 6 ta'
dan l-Att;

“korp imwaaqqaf b'ligi” tfisser kull korporazzjoni jew korp
magħqud ieħor imwaaqqaf b'ligi u tinkludi kull soċjetà jew korp
ieħor li fih il-Gvern jew xi korp wiehed jew iktar minn dawk hawn
aktar qabel imsemmija jew kull kombinazzjoni tagħhom ikollhom
sehem biżżejjed biex jikkontrollaw jew kellhom sehem biżżejjed
biex jikkontrollaw bejn id-9 ta' Mejju, 1987 u l-15 ta' Mejju, 1995
jew li fuqhom il-Gvern jew xi korp wiehed jew iktar bħal dawk
jew kull kombinazzjoni tagħhom ikollhom kontroll effettiv jew
kellhom kontroll effettiv bejn id-9 ta' Mejju, 1987 u l-15 ta' Mejju,
1995;

“persuna aggravata” tfisser individwu li jallega li għarrab dik
l-ingustizzja msemmija fl-artikolu 6 ta' dan l-Att iżda ma tinkludix
kumpannija jew soċjetà kummerċjali ohra jew individwu ieħor jew

persuna oħra li jagħmlu talba minhabba li jkunu azzjonisti jew membri ta' kumpannija jew ta' soċjetà kummerċjali oħra, jew grupp jew assoċjazzjoni li jkunu jinkludu kumpannija jew soċjetà kummerċjali oħra bħal dawk;

“it-Tribunal” tfisser it-Tribunal għall-Investigazzjoni ta' Ingustizzji mwaqqaf skond l-artikolu 3 ta' dan l-Att;

“uffiċjal pubbliku” għandha l-istess tifsir kif mogħti lilha bl-artikolu 124 tal-Kostituzzjoni.

Tribunal
għall-
Investigazzjoni
ta' Ingustizzji.

3. (1) Jitwaqqaf Tribunal wiehed jew iktar minn wiehed li kull wiehed minnhom ikun magħruf bħala t-Tribunal għall-Investigazzjoni ta' Ingustizzji, u li kull wiehed minnhom ikun magħmul minn president maħtur mill-President ta' Malta li jaġixxi fuq il-parir tal-Prim Ministru.

(2) Il-president għandu jkun persuna li tokkupa, jew kienet tokkupa l-kariga ta' mħallef jew ta' maġistrat f'Malta jew li tkun eżerċitat bħala avukat f'Malta għal perijodi li b'kollox ma jkunux jammontaw għal inqas minn tnaħ-il sena; iżda avukat li jinhatar bħala president tat-Tribunal m'għandux jithalla jeżerċita b'mod privat il-professjoni tiegħu.

(3) Hadd ma jkun kwalifikat biex ikollu l-kariga ta' president tat-Tribunal:—

(a) jekk ikun jew kien membru ta' jew kandidat għall-elezzjoni fil-Kamra tad-Deputati; jew

(b) jekk ikun jew kien membru ta' kunsill lokali.

(4) Bla hsara għad-dispożizzjonijiet ta' dan l-artikolu, il-kariga ta' president tat-Tribunal għandha ssir vakanti:

(a) fit-tmiem taż-żmien li matulu tibqa' sseħħ il-hatra tat-Tribunal;

(b) jekk jinholqu ċirkostanzi li, kieku ma kienx president tat-Tribunal, kienu jaġġgħluh ikun skwalifikat għal hatra bħal dik;

(c) fil-każ ta' president li jkun imħallef jew maġistrat, meta huwa jtemm il-kariga ta' mħallef jew maġistrat, u fil-każ ta' president li ma jkunx imħallef jew maġistrat, jekk huwa jirriżenja mill-kariga tiegħu billi jikteb ittra lill-President ta' Malta.

(5) (a) Il-president tat-Tribunal ma għandux jitneħħa mill-kariga tiegħu hlief mill-President ta' Malta wara indirizz mill-Kamra tad-

Deputati li jkollu favur tiegħu l-vot ta' mhux anqas minn żewġ terzi tal-membri tagħha u li jitlob għal dik it-tnehhija minhabba inkapaċità ippruvata li jaqdi l-funzjonijiet tal-kariga tiegħu (kemm jekk għal mard korporali jew mentali jew għal xi raġuni oħra) jew imġieba hazina ippruvata.

(b) Id-dispożizzjonijiet ta' l-Att ta' l-1994 dwar Kummissjoni għall-Amministrazzjoni tal-Ġustizzja, għandhom ikunu japplikaw *mutatis mutandis* għal mozzjoni bħal dik imsemmija fil-paragrafu (a) ta' dan l-artikolu l-istess bħalma japplikaw għal mozzjoni li ssir skond is-subartikolu (2) ta' l-artikolu 97 tal-Kostituzzjoni.

Att Nru.XI
ta' l-1994.

(6) Jekk il-kariga ta' president tat-Tribunal tkun vakanti jew jekk, għal xi raġuni, ma jkunx jista' jaqdi l-funzjonijiet tal-kariga tiegħu, il-President ta' Malta, li jaġixxi fuq il-parir tal-Prim Ministru, jista' jahtar persuna li tkun kwalifikata li tinhatar president tat-Tribunal, biex tkun president temporanju tat-Tribunal, u kull persuna hekk mahtura għandha, bla hsara għad-dispożizzjonijiet tas-subartikoli (4) u (5) ta' dan l-artikolu, tispicċa milli hekk tkun president malli persuna tkun inhatret biex timla l-vakanza jew, skond il-każ, malli l-president li ma setax jaqdi l-funzjonijiet tal-kariga tiegħu jerga' jibda jwettaq dawk il-funzjonijiet.

(7) Il-president tat-Tribunal jista' jiġi rikuzat jew għandu jastjeni fl-istess ċirkostanzi bħal imħallef tal-Qrati Superjuri; u f'kull każ bħal dak, ir-Registratur tat-Tribunal jassenja dak il-każ lil tribunal iehor kull meta jkun jiffunzjona tribunal iehor bħalu, b'dan illi meta jkun hemm tribunal wiehed biss jiffunzjona jew inkella jekk ikun hemm astensjonijiet u rikuzazzjonijiet fit-tribunali kollha li jkunu jiffunzjonaw, il-President ta' Malta li jaġixxi fuq il-parir tal-Prim Ministru għandu jahtar persuna li tkun kwalifikata għal dik il-hatra sabiex tkun president tat-Tribunal għall-każ jew każijiet partikulari li għar-rigward tagħhom il-president ikun ġie rikuzat jew ikun astjena.

(8) Persuna li ma tkunx imħallef jew maġistrat mahtur bħala president tat-tribunal għandu jkollha, filwaqt li tkun qed tokkupa dik il-kariga, l-istess salarju, *allowances* u benefiċċji ta' mħallef tal-qrati superjuri.

4. Iż-żmien li matulu jibqa' mwaqqaf it-Tribunal jiskadi meta jgħaddu erba' snin mill-bidu fis-sehħ ta' dan l-Att:

Żmien li matulu
jibqa' mwaqqaf
it-Tribunal.

Iżda dak iż-żmien jista' jittawwal, f'kull żmien qabel ma jiskadi, b'riżoluzzjoni tal-Kamra tad-Deputati għal dak iż-żmien iehor jew żminijiet oħra li f'kull każ ma jkunx ta' iktar minn sena.

Applikazzjoni tad-
dispożizzjonijiet ta'
dan l-Att.

5. (1) Bla hsara ghad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, dan l-Att japplika għall-Gvern, u għal kull korp imwaqqaf b'ligi kif imfisser fl-artikolu 2 ta' dan l-Att (hawn iktar 'il quddiem f' dan l-Att msejha "il-persuni li għalihom dan l-Att japplika").

(2) F'dan l-Att, kull riferenza għall-Gvern tinkludi riferenza għal kull dipartiment tal-Gvern jew awtorità oħra tal-Gvern, kull Ministru jew Segretarju Parlamentari, kull uffiċjal pubbliku u kull membru, jew impjegat, ta' awtorità tal-Gvern. Kull riferenza għal korp imwaqqaf b'ligi jew korp ieħor tinkludi riferenza għal kull direttur, membru, *manager* jew uffiċjal jew impjegat ieħor ta' dak il-korp.

(3) (a) Dan l-Att ma japplikax għall-persuni jew għall-korpi li jinsabu elenkati fit-Taqsima A fl-Ewwel Skeda li tinsab ma' dan l-Att.

(b) Dan l-Att ma japplikax għall-korpi elenkati fit-Taqsima B fl-Ewwel Skeda li tinsab ma' dan l-Att, kemm-il darba ma tingiebx prova b'sodifazzjon tat-Tribunal li tkun turi li kull mezz possibbli għall-ksib ta' rimedju jkun gie eżawrit.

(c) Il-Prim Ministru jista' jagħmel ordni fil-Gazzetta li biha jemenda, jibdel jew jissostitwixxi l-listi li hemm fit-Taqsima A u fit-Taqsima B ta' l-Ewwel Skeda li tinsab ma' dan l-Att. Ebda ordni taht dan il-paragrafu ma għandu jkollu effett qabel ma l-istess jiġi approvat b'rizoluzzjoni tal-Kamra tad-Deputati.

(d) It-Tribunal m'għandux jitratta ilment li jkun jehtieg investigazzjoni dwar dik l-azzjoni jew kwistjoni bħalma hemm imfisser fit-Taqsima C ta' l-Ewwel Skeda li tinsab ma' dan l-Att.

(4) Dan l-Att ma għandu jkun japplika għal ebda att jew omissjoni li jkunu graw qabel id-9 ta' Mejju, 1987 jew wara l-15 ta' Mejju, 1995.

Setgħat tat-
Tribunal.

6. (1) It-Tribunal ikollu s-setgħa li jisma' u jaqta' dwar kull ilment miktub li jsir minn persuna li tallega li tkun garrbet ingustizzja b'konsegwenza ta' xi distinzjoni, esklużjoni jew preferenza indebita li tkun saret jew ingħatat bi hsara għaliha, jew ta' xi inkapaċità jew restrizzjoni li kellha ggarra, b'xi azzjoni mehuda minn xi waħda mill-persuni li għalihom japplika dan l-Att dwar kull wiehed minn dawn li ġejjin:

(a) hatriet, promozzjonijiet jew trasferimenti ta' ufficjali pubbliċi;

(b) hatriet, promozzjonijiet jew trasferimenti ta' membri, ufficjali jew impjegati ta' xi korp imwaqqaf b'ligi;

(c) dhul fl-impieg;

(d) licenzi jew permessi mehtiega bil-ligi;

(e) kull haġa ohra li tista' tigi approvata b'rizoluzzjoni tal-Kamra tad-Deputati.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, it-Tribunal ma ghandux jaċċetta li jeżercita s-setgħat tiegħu taħt dan l-artikolu f'kull każ fejn ikun gie investigat ilment dwaru quddiem il-Kummissjoni mwaqqfa taħt l-Att dwar l-Investigazzjoni ta' Ingustizzji jew li dwaru jkun tressaq każ quddiem xi qorti. Kap. 320

7. (1) L-ilmenti quddiem it-Tribunal jitressqu permezz ta' rikors sostanzjalment fl-għamla stabbilita fit-Tieni Skeda li tinsab ma' dan l-Att. Proċedura.

(2) Ir-rikors għandu jkun fih dikjarazzjoni dwar il-fatti li fuqhom ikun imsejjes u għandu jkun imsieheb:

(a) b'elenku ta' xhieda flimkien ma' l-indirizz shiħ tagħhom fejn jigi dikjarat dwar kull wiehed minnhom xi prova bix-xiehda ta' kull xhud hu maħsub li tigi pruvata; u

(b) kull dokument b'sostenn tar-rikors.

(3) Ir-rikors flimkien ma' dak l-elenku u dokumenti, jekk ikun hemm, għandhom jigu prezentati fir-Registru tat-Tribunal fiż-żmien li matulu r-Registru tal-Qrati Superjuri jkun għadu miftuħ. Kopja ta' dak ir-rikors, lista u dokumenti jekk ikun hemm għandhom jigu notifikati lill-persuna li għaliha dan l-Att japplika li kontriha jkun sar l-ilment (hawn iżjed 'il quddiem imsejha "l-intimat").

(4) L-intimat għandu jipprezenta r-risposta tiegħu f'dak ir-Registru sa mhux iktar tard minn għoxrin jum wara li jircievi r-rikors. Ir-risposta għandu jkun fiha wkoll:

(a) dikjarazzjoni dwar il-fatti li fuqhom l-intimat isejjes ir-risposta kuntrarja tiegħu u din għandha tkun imsieħba b'elenku ta' xhieda tiegħu flimkien ma' l-indirizzi shiħ tagħhom fejn jigi

dikjarat dwar kull wiehed minnhom xi prova bix-xiehda ta' kull xhud hu mahsub li tigi pruvata; u

(b) kull dokument li jirrespingi t-talba.

Ir-risposta, elenki u dokumenti ghandhom jigu notifikati lil min jaghmel l-ilment.

(5) Wara li jghaddi z-zmien imsemmi fis-subartikolu (4), it-Tribunal jappunta jum u hin ghas-smigh ta' l-ilment. Dan il-jum u hin ghandu jigi notifikat lil min jaghmel l-ilment u lill-intimat, mir-Registratur li ghandu wkoll johrog kull tahrika mehtiega ghas-smigh tax-xhieda. F'dak il-jum it-Tribunal jisma', bil-gurament, ix-xiehda ta' min jaghmel l-ilment u tal-intimat kif ukoll dik tax-xhieda l-oħra kollha; wara dan, min jaghmel l-ilment u l-intimat ghandhom jaghmlu s-sottomissjonijiet tagħhom quddiem it-Tribunal.

(6) Waqt is-smiegh, il-partijiet jistghu ikunu assistiti minn avukat jew prokuratur legali jew minn kull persuna oħra li jkollha l-fiducja tagħhom:

Izda ebda persuna ma tista' titlob drittijiet għall-assistenza li tagħti lil xi persuna quddiem it-Tribunal li jkunu oghla minn dawk id-drittijiet li jistghu jintalbu minn avukat għall-istess servizz.

(7) Kull smigh bhal dak ghandu jkun bil-miftuh.

(8) It-Tribunal ghandu jagħti lill-partijiet smiegh xieraq ghelug zmien ragonevoli.

(9) (a) Id-deciżjoni tat-Tribunal ghandha tinghata bil-miftuh.

(b) Fid-deciżjoni tieghu, it-Tribunal jaqta' dwar jekk l-ilment ikunx gustifikat u sabiex jasal għal dik id-deciżjoni għandu jqis il-ligijiet, regolamenti jew dispożizzjonijiet tal-Estacode li kienu fis-seħh fil-waqt ta' l-att jew omissjoni li fuqu jkun imsejjes l-ilment.

(c) Meta t-Tribunal jaqta' li lment ikun gustifikat kollu kemm hu jew f'parti minnu, dan ghandu jirrikmanda, bla ħsara għad-dispożizzjonijiet tal-paragrafu (d) ta' dan is-subartikolu, li jinghata rimedju kompensattiv, b'gharfien tal-ligijiet, regolamenti u dispożizzjonijiet tal-Estacode li jkunu fis-seħh fid-data tar-rakkomandazzjoni.

(d) Meta skond dawk il-ligijiet, regolamenti jew dispożizzjonijiet tal-Estacode ma jkunx possibbli li t-Tribunal

jordna rimedju kompensattiv, it-Tribunal jista' jirrikmanda li jsir hlas ta' kumpens li f'ebda każ m'ghandu jeċċedi l-ammont ta' hamest elef lira Maltija.

(e) Id-deċiżjoni tat-Tribunal tkun finali u minnha ma jkun hemm ebda appell.

(10) Ikun id-dmir tar-Registatur li jiżgura li d-deċiżjoni tat-Tribunal tintbaghat lill-Prim Ministru fi żmien ghaxart ijiem minn meta tinghata.

(11) Ikun id-dmir tal-Prim Ministru li jimplementa r-rakkomandazzjonijiet tat-Tribunal billi jistabbilixxi dawk il-proċeduri u jaghti dawk id-direttivi li jkunu meħtieġa għat-twettiq ta' dawk ir-rakkomandazzjonijiet.

(12) Id-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 460 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili m'ghandhomx ikunu japplikaw għal proċedimenti li jsiru quddiem it-Tribunal.

(13) Il-Ministru responsabbli għall-gustizzja jista' jagħmel regolamenti li jistabbilixxu d-drittijiet li għandhom jithallsu fir-Registru tat-Tribunal

8. (1) It-Tribunal ikollu s-setgħa, li titwettaq permezz tal-president tiegħu —

Sejha tax-xhieda u għoti ta' gurament.

(a) li jsejjah xhieda;

(b) li jaghti l-gurament lil kull xhud u jeħtieġu jixhed.

(2) Kull tahrika għall-attendanza tax-xhieda tkun fl-għamla murija fit-Tieni Skeda li tinsab ma' dan l-Att u din għandha tkun iffirmata mir-registatur tat-Tribunal.

(3) Id-dispożizzjonijiet li għandhom x'jaqsmu man-notifiki li jinsabu fit-Titolu IV tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom ikunu japplikaw *mutatis mutandis* għan-notifika ta' tahrikiet skond dan l-Att kif ukoll dwar in-notifika ta' ilmenti, risposti, elenki u dokumenti oħra msemmija fl-artikolu 7 kif ukoll kull att ieħor li jiġi ippreżentat mill-partijiet jew li jinħareġ mit-Tribunal.

(4) Kull persuna mharrka kif imsemmi qabel li tirrifjuta, jew tonqos mingħajr raġuni xierqa, li tattendi fil-post u l-hin imsemmija fit-tahrika, jew li tirrifjuta, mingħajr raġuni xierqa, li twieġeb jew li twieġeb b'mod shiħ u sodisfaċenti, skond l-aħjar hila u għarfien tagħha l-mistoqsijiet kollha li jsirulha mit-Tribunal jew bi qbil mat-Tribunal, jew li tirrifjuta jew tonqos, mingħajr raġuni xierqa, li tipproduċi xi

dokument li tkun mehtieġa li tipproduċi mit-Tribunal jew bi qbil mat-Tribunal, tehel, meta tinsab hatja, multa ta' mhux iżjed minn hames mitt lira Maltija jew prigunerija għal mhux iżjed minn tliet xhur, jew dik il-multa u prigunerija flimkien:

Izda minkejja l-generalità tad-dispożizzjonijiet tal-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, ebda persuna li tixhed quddiem it-Tribunal ma tista' tkun imġieghla twieġeb għal mistoqsijiet meta t-twegiba tista' tesponiha għal proċess kriminali, u kull persuna bħal dik ikollha, dwar kull xhieda tagħha quddiem it-Tribunal, l-istess privileġġi li jkollu xhud li jixhed quddiem il-qorti.

(5) Il-proċedimenti dwar xi reat kontra dan l-artikolu għandhom jinbdeu fuq talba ta' l-Avukat Ġenerali.

Zmien li fih isir ilment.

9. M'għandux jiġi aċċettat ilment taht dan l-Att jekk l-ilment isir wara li jgħaddu sitt xhur mid-data tal-bidu fis-sehħ ta' dan l-Att.

Rapport.

10. It-Tribunal għandu kull sitt xhur, li jibdeu għaddejjin mid-data tal-bidu fis-sehħ ta' dan l-Att, jagħmel rapport dwar id-deċiżjonijiet tiegħu lill-Kamra tad-Deputati; dan ir-rapport għandu jintbagħat mir-Registratur lill-*Speaker* li għandu jara li jingieb għall-attenzjoni tal-Kamra tad-Deputati.

Registratur u uffiċjali oħra tat-Tribunal.

11. (1) Għandu jkun hemm Registratur tat-Tribunal li jkollu r-responsabbiltà li jamministra l-uffiċċju tat-Tribunal, u li jassigura tqassim ġust tad-dmirijiet bejn id-diversi presidenti billi jassenjalhom ir-rikorsi li jiġu preżentati kif imsemmi qabel kemm jista' jkun bir-rotazzjoni tax-xogħol skond id-data tal-preżentata tar-rikorsi, b'dan illi r-Registratur jista' fid-diskrezzjoni tiegħu jikkunsidra s-sugġett in kwistjoni ta' kull rikors sabiex jiżgura li rikorsi ta' l-istess xorta kemm jista' jkun jiġu trattati mill-istess president.

(2) Ir-Registratur għandu jkun persuna hekk mahtura mill-Prim Ministru jew uffiċjal pubbliku nominat mill-Prim Ministru sabiex iwettaq il-funzjonijiet ta' registratur.

(3) It-Tribunal ikollu wkoll dak il-persunal l-ieħor li l-Prim Ministru jisa' jqis mehtieġ u li jahtar jew jinnomina kif imsemmi qabel.

Ġurament ta' lealtà u tal-kariga li għandu jittiehed mill-president.

12. (1) Il-president, inkluż agent president, għandu, qabel ma jibda d-dmirijiet tiegħu, jiehu, quddiem il-President ta' Malta, il-ġurament ta' lealtà muri fil-Kostituzzjoni ta' Malta u l-ġurament li ġej:

Gurament tal-Kariga

Jiena nahlef li nagħmel bis-sewwa d-dmirijiet ta' president tat-Tribunal għall-Investigazzjoni ta' Ingustizzji bla favuri u mingħajr ma nżomm ma hadd, kif irid il-haqq u l-jedd, u kif iridu l-ligijiet u d-drawwiet ta' Malta, għall-gieħ t'Alla u tar-Repubblika ta' Malta, u li ma nikkomunika, direttament jew indirettament, ma' ebda persuna li tagħmel l-ilment jew intimat f'każ quddiem l-imsemmi Tribunal, lanqas ma l-Avukati jew Prokuraturi Legali tagħhom, lanqas ma' haddiehor fl-isem ta' waħda jew oħra minn dawk il-persuni, dwar rikors li jkun għadu ma giex deċiż, jew li jkun se jiġi preżentat fit-Tribunal hawn fuq imsemmi, barra minn fit-Tribunal bil-miftuh, hlief fil-każijiet li l-ligi ssemmi espressament; u li jiena nxandar fit-Tribunal, dawk il-kumnikazzjonijiet li jsiruli u ngharraf bihom lill-President ta' Malta. U nahlef ukoll li, direttament jew indirettament, ma nagħmilhiex ta' Avukat jew ta' arbitru, lanqas, f'ebda każ, ma nagħti parir jew fehma lil hadd dwar ebda ilment mibdi jew li għandu jinbeda fit-Tribunal hawn fuq imsemmi, hlief fil-każijiet li tgħid il-ligi, mingħajr qabel ma jiġi mogħti lili permiss mill-President ta' Malta wara rikors li nagħmel għaldaqshekk. Hekk Alla jghini.

(2) Meta xi komunikazzjoni, kif imsemmija fil-forma tal-gurament li hemm fis-subartikolu (1) ta' dan l-artikolu, tkun tikkonsisti f'ittra anonima jew f'ittra li min kitibha ma jkunx jista' jiġi magħruf malajr, jew meta xi komunikazzjoni bħal dik ikun fiha xi kliem ingurjuż jew offensiv, il-president ma jkollux għalfejn jaqra l-komunikazzjoni iżda jista' minflok waqt udjenza pubblika jikxef il-fatt li jkun irċeviha u għandu f'kull każ iġharraf il-kontenut tagħha lil-President ta' Malta.

13. Il-president tat-Tribunal ma jistax jintalab jixhed f'xi proċedimenti dwar hwejjeġ li jkun sar jaf bihom waqt proċedimenti li jkollhom x'jaqsmu ma xi lment li jkun sar skond dan l-Att.

Il-president ma jistax jintalab jixhed.

14. Kull salarju jew spiża li jithallsu fit-twettiq ta' dan l-Att għandhom jinħarġu mill-Fond Konsolidat bla hteġa ta' ebda approvazzjoni barra minn dan l-Att.

Spejjeż ta' amministrazzjoni.

15. Bla hsara għad-dispożizzjonijiet ta' dan l-Att, id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili li għandhom x'jaqsmu mal-prattika u l-proċedura quddiem il-Qorti Ċivili għandhom ikunu japplikaw *mutatis mutandis* għal kull Prattika u proċedura quddiem it-Tribunal.

Għandhom japplikaw id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

L-EWWEL SKEDA

(Artikolu 5)

TAQSIMA A

Il-President

Il-Kamra tad-Deputati

Il-Kabinett

Il-Ġudizzjarju

Kull Tribunal imwaqqaf b'xi ligi jew bis-sahha taghha

Il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja

Il-Kummissjoni Elettorali

L-Awtorità dwar ix-Xandir ta' Malta

Il-Kummissjoni dwar l-Impiegi

Il-Kummissjoni Permanenti Kontra l-Korruzzjoni

Il-Kummissjoni għal-Investigazzjoni ta' Ingustizzji

L-Avukat Ġenerali fit-twettiq tas-setgħat imsemmija fis-subartikolu (3) ta' l-artikolu 91 tal-Kostituzzjoni

Kull Avukat jew Konsulent Legali tal-Gvern li jaġixxi f' dik il-kariga

Id-Direttur ta' Verifika dwar il-funzjonijiet li johorgu mis-subartikoli (4) u (5) ta' l-artikolu 108 tal-Kostituzzjoni

Il-Forzi Armati ta' Malta hliel skond dak li hemm provdut fit-Taqsima B ta' din l-Iskeda

Is-Servizz ta' Sigurtà.

TAQSIMA B

Il-Kummissjoni dwar is-Servizz Pubbliku

Il-Forzi Armati ta' Malta għar-rigward biss ta' hatriet, promozzjonijiet, trasferimenti, salarji u drittijiet ta' pensjoni ta' l-uffiċjali u suldati f' dik il-Forza Armata.

TAQSIMA Ċ

Kwistjonijiet li ma jistghux jiġu investigati.

1. Kull kwistjoni li tista' tiġi ċertifikata mill-Prim Ministru bhala li tolqot is-sigurtà interna jew esterna ta' Malta.

2. Azzjoni li tittiehed fi kwistjonijiet ċertifikati mill-Ministru responsabbli għall-affarijiet barranin bhala li jolqtu r-relazzjonijiet jew arrangamenti bejn il-Gvern ta' Malta u Gvern iehor jew xi organizzazzjoni internazzjonali ta' Stati jew Gvernijiet.

3. Azzjoni li tittiehed mil-Ministru responsabbli għall-gustizzja bis-sahha ta' l-Att dwar l-Estradizzjoni (Kap. 276).

4. L-istituzzjoni jew it-tmexxija ta' proċedimenti ċivili jew kriminali quddiem qorti tal-gustizzja jew xi tribunal f'Malta, jew ta' proċedimenti dwar reati militari li jsiru bis-sahha ta' l-Att dwar il-Forzi Armati ta' Malta (Kap. 220), jew ta' proċedimenti quddiem xi qorti jew tribunal internazzjonali.

5. It-twettiq tas-setgha li ghandu l-Prim Ministru bis-sahha ta' l-artikolu 515 tal-Kodiċi Kriminali (Kap. 9).

6. Kull investigazzjoni kriminali maghmula mill-Pulizija.

IT-TIENI SKEDA

(Artikolu 7)

A. Rikors dwar ilment

Fit-Tribunal għall-Investigazzjoni ta' Ingustizzji

AB
(persuna li tagħmel l-ilment)
versus
CD
(intimat)

Rikors ta' AB

Jesponi bir-rispett:

Illi bejn id-9 ta' Mejju, 1987 u l-15 ta' Mejju, 1995, u b'mod iktar preċiż fi jew għall-habta ta'(hawn semmi f'liema data), huwa sofra ingustizzja f'li (hawn semmi liema distinzjoni, esklużjoni jew preferenza indebita saret jew inghatat bi preġudizzju tal-persuna li tagħmel l-ilment jew id-dizabilità jew restrizzjoni li huwa jkun gie sugġett għaliha).

Illi l-fatti tal-każ kienu fil-qosor kif ġej (agħti fil-qosor il-fatti tal-każ).

Illi huwa bi hsiebu jgħib biex isostni l-ilment tiegħu lix-xhieda murija fl-elenku hawn anness li jindika għar-rigward ta' kull xhud daww il-fatti li r-rikorrent bi hsiebu jgħib prova dwarhom bix-xiehda tiegħu.

Għaldaqstant ir-rikorrent umilment jitlob lil dan it-Tribunal li jisma' u jiddeċiedi dwar dan l-ilment skond l-Att ta' l-1997 dwar it-Tribunal għall-Investigazzjoni ta' Ingustizzji, u li jinghata rimedju billi jiġi ordnat illi (hawn semmi x'għamla ta' rimedju jista' jinghata), jew inkella jekk dan ir-rimedju ma jistax jinghata, li jiġi ordnat li jithallas lili kumpens f'ammont ta' (semmi ammont li ma jkunx ta' aktar minn Lm5,000).

Firma tal-persuna li tagħmel
l-ilment jew ta' persuna li
tidher għalih

Indirizz tal-persuna li tagħmel l-ilment

Indirizz tal-intimat.

(Artikolu 8)

B. Tahrika ta' Xhud

Att ta' l-1997 dwar it-Tribunal għall-Investigazzjoni ta' Ingustizzji

Lil A.B. (isem il-persuna mharrka u fejn toqgħod)

Inti hawnhekk tinsab imharrek biex tidher quddiem it-Tribunal hawn
imsemmi fi (post)
fi (data u hin)
u li tixhed dwar
(il-kwistjoni ta' l-inkjesta).

Iffirmat minni illum

ta'

tas-sena

(Firma tar-Registratur).

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 60 tat-30 ta' April, 1997.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati.

I assent.

(L.S.)

GUZE' CASSAR
Acting President

5th May, 1997

ACT No. VIII of 1997

AN ACT to make provision for the establishment of an independent Tribunal for the hearing of complaints of certain injustices occurring between 1987 and 1995.

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

Short title
and
commencement.

1. This Act may be cited as the Tribunal for the Investigation of Injustices Act, 1997, and shall come into force on such date as the Prime Minister may by notice in the Gazette establish, and different dates may be so established for different provisions and different purposes thereof.

Interpretation.

2. In this Act unless the context otherwise requires —

“the Tribunal” means the Tribunal for the Investigation of Injustices established under section 3 of this Act;

“injustice” has the meaning assigned to it under section 6 of this Act;

“person aggrieved” means an individual who claims to have sustained such injustice as is mentioned in section 6 of this Act but does not include a company or other commercial partnership or an individual or other person claiming as a shareholder or member of a company or other commercial partnership, or a group or association which includes any such company or other commercial partnership;

“public officer” has the same meaning assigned to it by section 124 of the Constitution;

“statutory body” means any corporation or other body corporate established by law and includes any partnership or body in which the Government or any one or more of the said bodies aforesaid or any combination thereof has a controlling interest or

had a controlling interest between the 9th May, 1987 and the 15th May, 1995 or over which the Government or any one or more of the said bodies or a combination thereof has effective control or had effective control between the 9th May, 1987 and the 15th May, 1995.

3. (1) There shall be one or more Tribunals, each of which is to be known as the Tribunal for the Investigation of Injustices and each consisting of a president, appointed by the President of Malta acting on the advice of the Prime Minister.

Tribunal for
the Investigation
of Injustices.

(2) The president shall be a person who holds, or has held the office of a judge or of a magistrate in Malta or who has practised as an advocate in Malta for periods amounting in the aggregate to not less than twelve years; provided that an advocate appointed as president of the Tribunal shall not be allowed the private practice of his profession.

(3) A person shall not be qualified to hold office as president of the Tribunal:—

(a) if he is or has been a member of or a candidate for election to the House of Representatives; or

(b) if he is or has been a member of a local council.

(4) Subject to the provisions of this section, the office of president of the Tribunal shall become vacant:

(a) at the expiration of the term for which the Tribunal is appointed;

(b) if any circumstances arise that, if he were not president of the Tribunal would cause him to be disqualified for appointment as such;

(c) in the case of a president who is a judge or magistrate on his ceasing to be a judge or magistrate and in the case of a president who is not a judge or magistrate if he resigns his office by letter to the President of Malta.

(5) (a) The president of the Tribunal shall not be removed from his office except by the President of Malta upon an address by the House of Representatives supported by the votes of not less than two-thirds of all the members thereof and praying for such removal on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour.

(b) The provisions of the Commission for the Administration of Justice Act, 1994 shall apply, *mutatis mutandis*, to a motion as is referred to in paragraph (a) hereof as it applies to a motion under subsection (2) of section 97 of the Constitution.

(6) If the office of president of the Tribunal is vacant or if, for any reason, he is unable to perform the functions of his office, the President of Malta acting on the advice of the Prime Minister may appoint a person who is qualified to be appointed president of the Tribunal to be a temporary president of the Tribunal, and any person so appointed shall, subject to the provisions of subsections (4) and (5) of this section, cease to be such a president when a person has been appointed to fill the vacancy or, as the case may be, when the president who was unable to perform the functions of his office resumes those functions.

(7) The president of the Tribunal may be challenged or shall abstain in the same circumstances as a judge of the Superior Courts; and in any such case the Registrar of the Tribunal shall assign that case to another tribunal whenever such other tribunal is in office, so however that where only one tribunal is in office or when abstentions or challenges are raised in all the tribunals in office, the President of Malta acting on the advice of the Prime Minister shall appoint a person qualified for such appointment to be president of the Tribunal for the particular case or cases in respect of which the president has been challenged or has abstained.

(8) A person other than a judge or magistrate appointed as president of the tribunal shall during the tenure of his office enjoy the same salary, allowances and benefits of a judge of the superior courts.

Term of the
Tribunal.

4. The term of the Tribunal shall expire on the expiration of four years from the coming into force of this Act:

Provided that the said term may, at any time before its expiry, be extended by resolution of the House of Representatives for a further period or periods each of not more than one year.

Application
of the
provisions of
this Act.

5. (1) Subject to the provisions of subsection (3) of this section this Act applies to the Government, and to any statutory body as defined in section 2 of this Act (hereinafter in this Act referred to as "the persons to whom this Act applies").

(2) In this Act, reference to the Government includes a reference to any Government department or other authority of the Government, any Minister or parliamentary Secretary, any public officer and any member of, or servant of, an authority of the Government. Reference to a statutory or other body includes a reference to any director, member, manager or other officer or servant of such body.

(3) (a) This Act does not apply to the persons or bodies listed in Part A of the First Schedule to this Act.

(b) This Act shall not apply to the bodies listed in Part B of the First Schedule to this Act, unless proof to the satisfaction of the Tribunal is produced showing that all available means of redress have been exhausted.

(c) The Prime Minister may by order in the Gazette amend, vary or substitute the lists in Part A and Part B of the First Schedule to this Act. No order under this paragraph shall have effect unless it is approved by a resolution of the House of Representatives.

(d) The Tribunal shall not entertain a complaint that requires the investigation in respect of such action or matter as is described in Part C of the First Schedule of this Act.

(4) This Act shall not apply to any act or omission occurring before the 9th May, 1987 or after the 15th May, 1995.

6. (1) The Tribunal shall have the power to hear and determine any written complaint made by any person who claims to have sustained injustice in consequence of any undue distinction, exclusion or preference which has been made or given to his prejudice, or of any disability or restriction to which he has been subjected, by any action taken by any person to whom this Act applies in respect of any of the following:

Powers of the Tribunal.

(a) appointments, promotions or transfers of public officers;

(b) appointments, promotions or transfers of members, officers or employees of any body established by law;

(c) recruitment for employment;

(d) licences or permits required by law;

(e) any other matter which may be approved by resolution of the House of Representatives.

Cap. 320.

(2) Notwithstanding the provisions of subsection (1) of this section, the Tribunal shall decline to exercise its powers under this section in any case where a complaint thereon has been investigated by the Commission set up under the Investigation of Injustices Act or action has been taken on the matter before a court of law.

Procedure.

7. (1) Complaints before the Tribunal shall be made by application substantially in the form set out in the Second Schedule to this Act.

(2) The application shall contain a statement as to the facts on which it is based, and shall be accompanied by:

(a) a list of witnesses together with their full address stating in respect of each of them the proof by the testimony of each witness it is intended to establish by their evidence; and

(b) any document in support of the application:

(3) The application together with the said list and documents if any shall be filed in the Registry of the Tribunal during the time in which the Registry of the Superior Courts is kept open. A copy of the said application, list and documents if any shall be served upon the person to whom this Act applies against whom the complaint is directed (hereinafter referred to as "the respondent").

(4) The respondent shall file a reply in the said Registry by not later than twenty days of the receipt of the application. The reply shall contain:

(a) a statement of the fact upon which the respondent bases his rebuttal of the claim and shall be accompanied by a list of his witnesses together with their full addresses stating in respect of each of them the proof it is intended to establish by his evidence; and

(b) any document in rebuttal of the claim.

The reply, lists and documents shall be served on the complainant.

(5) After the lapse of the period referred to in subsection (4) the Tribunal shall fix a date and time for the hearing of the complaint. This date and time is to be notified to the complainant and the respondent

by the Registrar who shall also issue the necessary summons for the hearing of witnesses. On that day the Tribunal shall hear, under oath, the evidence of the complainant and the respondent as well as that of the other witnesses; the complainant and the respondent shall then make their submissions to the Tribunal.

(6) During the hearing the parties may be assisted by a lawyer or legal procurator or any other person who enjoys their trust:

Provided that no person may claim fees for assisting a person before the Tribunal which are higher than those which may be charged by an advocate for the same service.

(7) Every such hearing shall be conducted in public.

(8) The Tribunal shall give the parties a fair hearing within a reasonable time.

(9) (a) The decision of the Tribunal shall be delivered in public.

(b) In its decision the Tribunal shall decide whether the complaint is justified and in arriving at its decision it shall take into consideration the laws, regulations or provisions of the Estacode in force at the time of the act or omission upon which the complaint is based.

(c) Where the Tribunal decides that the complaint is justified in whole or in part, it shall, subject to the provisions of paragraph (d) hereof, recommend redress in kind, bearing in mind the laws, regulations and the provisions of the Estacode as are in force on the date of the recommendation.

(d) Where in accordance with such laws, regulations or provisions of the Estacode it is not possible for the Tribunal to order redress in kind, the Tribunal may recommend the payment of compensation which shall in no case exceed the sum of five thousand liri.

(e) The decision of the Tribunal shall be final and no appeal shall lie therefrom.

(10) It shall be the duty of the Registrar to ensure that the decision of the Tribunal be sent to the Prime Minister within ten days of its delivery.

(11) It shall be the duty of the Prime Minister to implement the recommendations of the Tribunal by setting up such procedures and giving such directives as are necessary for the implementation of the said recommendations.

(12) The provisions of subsection (1) of section 460 of the Code of Organization and Civil Procedure shall not apply to any proceedings before the Tribunal.

(13) The Minister responsible for justice may by regulations establish the fees payable to the Registry of the Tribunal.

Summoning of witnesses and administration of oaths.

8. (1) The Tribunal shall have power, exercisable through its president —

(a) to summon witnesses;

(b) to administer the oath to any witness and require him to give evidence.

(2) (a) Summonses for attendance of witnesses shall be in the form set out in the Second Schedule to this Act, and shall be signed by the registrar of the Tribunal.

(3) The provisions relating to service under Title IV of Part I of Book Second of the Code of Organization and Civil Procedure shall *mutatis mutandis* apply to the service of summons under this Act as well as to the service of complaints, replies, lists and other documents referred to in section 7 as well as any other Acts filed by the parties or issued by the Tribunal.

(4) Any person summoned as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses, without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief all questions put to him by or with the concurrence of the Tribunal, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Tribunal, shall be liable, on conviction, to a fine (*multa*) not exceeding five hundred liri or to imprisonment not exceeding three months, or to both such fine and imprisonment:

Provided that, notwithstanding the generality of the provisions of paragraph (b) of subsection (1) of this section, no person giving evidence before the Tribunal may be compelled to answer any question which tends to expose him to any criminal prosecution, and every such person shall, in respect of any evidence given by him before the Tribunal be

entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

(5) Proceedings in respect of any offence against this section shall be instituted at the instance of the Attorney General.

9. A complaint made under this Act shall not be entertained if it is made after the lapse of six months from the date of the coming into force of this Act. Period of complaint.

10. The Tribunal shall, every six months starting from the date of commencement of this Act, make a report of its decisions to the House of Representatives; such report shall be submitted by the Registrar to the Speaker who shall cause it to be brought to the notice of the House of Representatives. Report.

11. (1) There shall be a Registrar to the Tribunal who shall be vested with the responsibility for the administration of the office of the Tribunal, and who shall ensure a fair distribution of duties between the various presidents by assigning to them the applications filed as aforesaid as far as may be by rotation in accordance with the date of filing of the applications, so however that the Registrar may in his discretion take into account the subject matter of each application so as to ensure that applications of the same nature are, as far as may be, dealt by the same Tribunal. Registrar and other staff of the Tribunal.

(2) The Registrar shall be a person appointed by the Prime Minister or a public officer designated by the Prime Minister to perform the functions of registrar.

(3) The Tribunal shall have such other staff as the Prime Minister may deem necessary and appoint or designate as aforesaid.

12. (1) The president, including a temporary president shall, before entering on the execution of his office, take, before the President of Malta, the oath of allegiance set out in the Constitution of Malta and the following oath: Oaths of allegiance and of office to be taken by the President.

Oath of Office

Ido swear that I will faithfully perform the duties of president of the Tribunal for the Investigation of Injustices without favour or partiality, according to justice and right, and in accordance with the laws and customs of Malta, to the honour of God and the Republic of Malta, and that I will not hold, either directly or indirectly, any communication with any complainant or respondent in any case before the said Tribunal, his Advocates or Legal Procurators, or with any other person on behalf of such person, in regard to any application pending or about to be filed in the said Tribunal, except in the Tribunal in public hearing saving the cases expressly provided for

by law; and that I will disclose in the Tribunal and make known to the President of Malta any such communication as may be made to me. And I do further swear that I will not act, either directly or indirectly, as an Advocate, or arbitrator, nor give in any case counsel or advice to any person in regard to any complaint already entered or to be entered in the said Tribunal, saving the cases excepted by law, without the permission of the President of Malta first had and obtained upon an application to that effect. So help me God.

(2) Where any communication as is referred to in the form of oath contained in subsection (1) of this section consists in an anonymous letter or in a letter the writer whereof cannot be readily identified, or where any such communication contains insulting or offensive expressions, the president need not read out the communication but may instead during a public hearing disclose the fact of such receipt and shall in any case make the content thereof known to the President of Malta.

President
not to be
called to give
evidence.

13. The president of the Tribunal shall not be called upon to give evidence in any proceedings, on matters coming to his knowledge in the course of any proceedings in connection with any complaint under this Act.

Expenses of
administration.

14. Any salary or expense payable in carrying this Act into effect shall be defrayed out of the Consolidated Fund without any further appropriation other than this Act.

Provisions of Code
of Organization and
Civil Procedure
to apply.

15. Subject to the provisions of this Act, the provisions of the Code of Organization and Civil Procedure relating to practice and procedure before the Civil Court shall *mutatis mutandis* apply to the practice and procedure before the Tribunal.

FIRST SCHEDULE

(Section 5)

PART A

The President

The House of Representatives

The Cabinet

The Judiciary

Any Tribunal constituted by or under any law

The Commission for the Administration of Justice

The Electoral Commission

The Malta Broadcasting Authority

The Employment Commission

The Permanent Commission against Corruption

The Commission for Investigation of Injustices

The Attorney General in the exercise of the powers referred to in subsection (3) of section 91 of the Constitution

Any Counsel or Legal Adviser to the Government acting in such a capacity

The Director of Audit in respect of the functions under subsections (4) and (5) of section 108 of the Constitution

The Armed Forces of Malta except as provided in Part B hereof

The Security Services.

PART B

The Public Service Commission

The Armed Forces of Malta in respect only of appointments, promotions, transfers, pay and pension rights of officers and men of the Force.

PART C

Matters not subject to Investigation.

1. Any matter certified by the Prime Minister to affect the internal or external security of Malta.
2. Action taken in matters certified by the Minister responsible for foreign affairs to affect relations or dealings between the Government of Malta and any other Government of Malta and any other Government or any international organisation of States or Governments.
3. Action taken by the minister responsible for justice under the Extradition Act (Cap. 276).
4. The commencement or conduct of civil or criminal proceedings before any court of law or any tribunal in Malta, or of proceedings in respect of military offences under the Malta Armed Forces Act (Cap. 220) or of proceedings before any international court or tribunal.
5. The exercise of the power of the Prime minister under section 515 of the Criminal Code (Cap. 9).
6. Any criminal investigation by the Police.

SECOND SCHEDULE

(Section 7)

A. Application for complaint

In the Tribunal for the Investigation of Injustices

AB
(complainant)

versus

CD
(respondent)

Application of AB

Respectfully states

That between the 9th May 1987 and the 15th May, 1995 and more precisely on or around the(state date) he suffered injustice in that he was(state here the undue distinction, exclusion or preference which has been made or given to the prejudice of complainant or the disability or restriction to which he has been subjected).

That the facts of the case were briefly as follows(state briefly facts of case).

That he intends to produce in support of his complaint the witnesses shown in the attached list which shows with respect to each witness the facts that the complainant intends to prove by his testimony.

The applicant therefore humbly requests this Tribunal to hear and determine this complaint in accordance with the Tribunal for the Investigation of Injustices Act, 1997 and to grant me redress by ordering(state here form of redress possible), or where such redress is not possible to order the payment of compensation to me in the sum of(state sum which may not exceed Lm5000).

Signature of complainant
or person on his behalf

Address of complainant.

Address of respondent.

(Section 8)

B. Summons to Witness

The Tribunal for the Investigation of Injustices Act, 1997

To A.B. (name of person summoned and his address)

You are hereby summoned to appear before the above Tribunal at
(place)

on (date and time)

and to give evidence respecting

(the matter of the inquiry).

Given under my hand this day of of the year
_____ (Signature of Registrar).

Passed by the House of Representatives at Sitting No. 60 of the
30th April, 1997.

Myriam Spiteri Debono
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.