

I assent.

(L.S.)

GEORGE VELLA
President

20th December, 2022

ACT No. XIX of 2022

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

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

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

Short title and scope.

Cap. 420.

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

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

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

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qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast); and

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

Substitution of article 1 of the principal Act.

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

"Short title and applicability.

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

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

Amendment of article 2 of the principal Act.

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

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

Substitution of article 3 of the principal Act.

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

"Scope.

3. The scope of this Act is:

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

(b) to transpose:

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

(ii) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast); and

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

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

Amendment of article 7 of the principal Act.

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

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

S.L.420.07. "Provided that no right of appeal shall lie from a decision of the International Protection Agency to withdraw international protection on the basis that this has lapsed in accordance with regulation 13A of the Procedural Standards for Examining Applications for International Protection Regulations."

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

Amendment of article 7A of the principal Act.

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

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

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

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

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

Amendment of article 10 of the principal Act.

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

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

Amendment of article 13 of the principal Act.

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

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

Amendment of article 17A of the principal Act.

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

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

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

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

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

protection status."

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

Amendment of
article 22 of the
principal Act.

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

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

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

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

(b) he has committed a serious crime; or

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

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

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

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

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

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Amendment of
article 23 of the
principal Act.

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

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

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

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

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

