

MALTA

ATT Nru XX tal-2021

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

ATT sabiex jemenda l-Kostituzzjoni ta' Malta u l-Att dwar l-Elezzjonijiet Ġenerali sabiex jiżgura ugwaljanza *de facto* bejn in-nisa u l-irġiel fil-politika.

ACT No. XX of 2021

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Constitution of Malta and the General Elections to ensure *de facto* equality between men and women in politics.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

20 ta' April, 2021

ATT Nru XX tal-2021

ATT sabiex jemenda l-Kostituzzjoni ta' Malta u l-Att dwar l-Elezzjonijiet Ġenerali sabiex jiżgura ugwaljanza de facto bejn in-nisa u l-irġiel fil-politika.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2021 li jemenda l-Kostituzzjoni ta' Malta u l-Att dwar l-Elezzjonijiet Ġenerali. Titolu fil-qosor.

TAQSIMA I

Emendi għall-Kostituzzjoni ta' Malta

2. Din it-Taqsima temenda l-Kostituzzjoni ta' Malta u għandha tinqara u tinftiehem haġa waħda mal-Kostituzzjoni ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejja "il-Kostituzzjoni". Emendi għall-Kostituzzjoni ta' Malta.

A 444

Żieda ta' artikolu ġdid 52A fil-Kostituzzjoni.

3. Minnufih wara l-artikolu 52 tal-Kostituzzjoni għandu jiżdied dan l-artikolu ġdid li ġej:

"Siġġijiet addizzjonali għas-sess l-inqas rappreżentat.

52A. (1) Jekk f'elezzjoni ġenerali li tkun ikkontestata minn żewġ partiti politiċi jew aktar u li fiha l-kandidati ta' żewġ partiti biss ikunu eletti jew f'każ ta' riżultat ta' elezzjoni kif provdut fis-subparagrafi (i) u (ii) tal-proviso tas-subartikolu (1) tal-artikolu 52 u fil-każ li n-numru ta' Membri tal-Parlament tas-sess l-inqas rappreżentat, elett bis-saħħa tal-artikolu 52, inkluż dawk il-membri eletti f'elezzjoni każwali skont ir-regolamenti rilevanti, huwa inqas minn erbgħin fil-mija (40%) tal-Membri kollha tal-Parlament, allura n-numru ta' Membri tal-Parlament għandu jiżdied b'mhux aktar minn tnax (12)-il Membru tas-sess l-inqas rappreżentat:

Iżda n-numru ta' Membri Parlamentari tas-sess l-inqas rappreżentat elett bis-saħħa tal-artikolu 52 miżjud mal-membri tas-sess l-inqas rappreżentat elett bis-saħħa ta' dan l-artikolu ma għandux jaqbeż l-erbgħin fil-mija (40%) tan-numru totali ta' Membri eletti tal-Parlament li jifforma l-Kamra.

Il-kandidati eletti bis-saħħa ta' dan l-artikolu għandhom ikunu mqassma ugwalmart bejn il-partit b'maġġoranza assoluta jew il-partit b'maġġoranza relattiva u l-partit b'minoranza.

(2) Dak il-kandidat jew il-kandidati li jagħmlu parti mis-sess l-inqas rappreżentat u li jkunu kandidati tal-partit jew tal-partiti li għandhom jiġu akkreditati bis-siġġijiet addizzjonali, u li jkunu ġew akkreditati mill-Kummissjoni Elettorali fl-aħħar għadd bl-ogħla jew bin-numru ta' voti li jmiss l-aktar għoli mingħajr ma jkunu ġew eletti, irrispettivament mid-distrett fejn jinkiseb dak l-ogħla jew in-numru ta' voti li jmiss l-aktar għoli, għandhom jiġu ddikjarati mill-Kummissjoni Elettorali bħala eletti biex jimlew is-siġġijiet addizzjonali maħluqa mis-subartikolu (1):

Iżda f'każ li n-numru ta' kandidati stabbiliti taht dan l-artikolu ma jintlaħaqx, wara l-applikazzjoni tas-subartikolu preċedenti, għandhom ikunu ddikjarati eletti mill-Kummissjoni Elettorali biex jimlew il-bqija tas-siġġijiet addizzjonali maħluqa minn dan l-artikolu, dawk il-kandidati li jagħmlu parti mis-sess l-inqas rappreżentat, li jkunu kandidati tal-partiti li għandhom jiġu akkreditati bis-siġġijiet addizzjonali u li ġew gradati fuq bażi nazzjonali mill-Kummissjoni Elettorali bl-ogħla jew bin-numru li jmiss l-aktar għoli ta' kwota perċentwali miksuba fuq il-bażi tal-għadd finali tal-vot rispettiv tagħhom, qabel l-eliminazzjoni, b'rabta mal-kwota tad-distrett elettoral kkontestat:

Iżda wkoll f'każ li n-numru ta' kandidati stabbiliti taht dan l-artikolu ma jintlaħaqx kif previst f'dan is-subartikolu, is-siġġijiet li jibqgħu vakanti għandhom jimlew bl-għażla ta' Membru jew Membri mill-Kamra u dak il-Membru jew Membri għandhom ikunu kwalifikati biex ikunu eletti bħala Membru tal-Kamra kif stabbilit taht l-artikolu 53, ma għandhomx ikunu soġġetti għal ebda skwalifika għas-shubija fil-Kamra kif provdut taht l-artikolu 54 u għandhom jappartjenu għas-sess l-inqas rappreżentat.

(3) Għall-finijiet ta' dan l-artikolu, kandidati eletti jew li ma jkunux ġew eletti li huma identifikati bħala newtrali fir-rigward tal-ġeneru fid-dokumentazzjoni uffiċjali, għandhom jingħaddu mas-sess l-inqas rappreżentat.

(4) Dan l-artikolu għandu jibqa' fis-seħħ sal-iskadenza tal-perjodu ta' għoxrin (20) sena mid-data li jidhol fis-seħħ, sakemm ma jiġix imħassar jew imdaħħal mill-ġdid bi jew mingħajr modifika permezz ta' Att tal-Parlament skont id-dispożizzjonijiet ta' din il-Kostituzzjoni."

4. Fil-paragrafu (b) tas-subartikolu (2) tal-artikolu 61A tal-Kostituzzjoni, il-kliem "l-eletturi li jkun hemm fih." għandhom jiġu sostitwiti bil-kliem "l-eletturi li jkun hemm fih:" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

Emenda tal-artikolu 61A tal-Kostituzzjoni.

"Iżda dan il-paragrafu ma għandux japplika għall-fini tal-ewwel proviso tas-subartikolu (2) tal-artikolu 52A."

5. Fil-paragrafu (b) tas-subartikolu (2) tal-artikolu 66 tal-Kostituzzjoni minflok il-kliem "l-artikoli 51, 52, 56, 57, 60, 61 u 64A," għandhom jidhlu l-kliem "l-artikoli 51, 52, 52A, 56, 57, 60, 61 u 64A,".

Emenda tal-artikolu 66 tal-Kostituzzjoni.

TAQSIMA II

Emendi għall-Att dwar l-Elezzjonijiet Ġenerali

Emendi għall-Att dwar l-Elezzjonijiet Ġenerali. Kap. 354.

6. Din it-Taqsima temenda l-Att dwar l-Elezzjonijiet Ġenerali u din it-Taqsima għandha tingara u tinftiehem haġa waħda mal-Att dwar l-Elezzjonijiet Ġenerali, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 7 tal-Att prinċipali.

7. Fis-subartikolu (2) tal-artikolu 7 tal-Att prinċipali, il-kliem "tmien membri li jkunu Kummissjonarji Elettorali." għandhom jiġu sostitwiti bil-kliem "għaxar (10) membri li jkunu Kummissjonarji Elettorali; dawn il-membri għandhom jirriflettu rappreżentazzjoni ugwali bejn is-sessi, fi kwalunkwe każ ma jkunux inqas minn erba' (4) membru ta' kull sess."

Żieda ta' regolament ġdid fit-Tleltaħ-il Skeda li tinsab mal-Att prinċipali.

8. Minnufih wara l-Anness mat-Tleltaħ-il Skeda li tinsab mal-Att prinċipali għandu jiġi miżjud dan ir-regolament ġdid li ġej:

"Membri addizzjonali skont l-artikolu 52A tal-Kostituzzjoni.

24. Għall-fini biex teleġgi l-membri addizzjonali, jekk ikun hemm bżonn, skont l-artikolu 52A tal-Kostituzzjoni, il-Kummissjoni għandha:

(a) tistabbilixxi n-numru ta' membri eletti fil-Kamra skont is-sess u tiddetermina s-sess l-inqas rappreżentat bħala s-sess bl-inqas numru ta' membri eletti fil-Kamra;

(b) tistabbilixxi l-persentaġġ ta' sigġijiet miksuba mis-sess l-inqas rappreżentat abbażi tan-numru ta' membri eletti tas-sess l-inqas rappreżentat eletti fil-Kamra bħala proporzjon tal-ġħadd ta' membri eletti fil-Kamra billi jiġi diviż in-numru ta' membri eletti tas-sess l-inqas rappreżentat man-numru ta' membri eletti mmultiplikati b'mija; u

(ċ) f'każ li l-persentaġġ tas-sess l-inqas rappreżentat ikun inqas minn erbgħin fil-mija (40%), il-Kummissjoni għandha tassinja sa massimu ta' tnax (12)-il sigġu addizzjonali billi tapplika l-ekwazzjoni li ġejja:

A = in-numru totali tas-sigġijiet miksuba mis-sess l-inqas rappreżentat;

B = in-numru totali tal-membri eletti fil-Kamra;

x = sigġijiet addizzjonali maħluqa skont l-artikolu 52A tal-Kostituzzjoni;

0.40 = id-denominatur li jirrappreżenta in-numru totali ta' sigġijiet, inkluż is-sigġijiet addizzjonali maħluqa skont l-artikolu 52A tal-Kostituzzjoni.

$$\frac{(A) + x}{(B) + x} = 0.40$$

Bla ħsara għad-dispożizzjonijiet tal-artikolu 52(1) tal-Kostituzzjoni, in-numru ta' sigġijiet addizzjonali li jirriżulta mill-applikazzjoni tal-ekwazzjoni għandu jitniżżel għall-eqreb numru biż-żewġ sħiħ sabiex jiżgura li s-sigġijiet addizzjonali allokati lis-sess l-inqas rappreżentat skont l-artikolu 52A tal-Kostituzzjoni għandu jkun numru biż-żewġ sħiħ u l-membri eletti tas-sess l-inqas rappreżentat eletti fil-Kamra ma għandux jeċċedi l-erbghin fil-mija (40%).".

9. Minnufih wara r-regolament 24 tat-Tleltax-il Skeda li tinsab mal-Att prinċipali, kif miżjud bil-klawsola 8, għandu jiġi miżjud dan l-Anness ġdid li ġej:

Żieda ta' anness ġdid mat-Tleltax-il Skeda li tinsab mal-att prinċipali.

"Anness mat-Tleltax-il Skeda

Art. 52A tal-Kostituzzjoni

Regolament 23A tar-Regolamenti tal-1991 dwar l-Elezzjonijiet Ġenerali (Klassifika tal-Poloż tal-Votazzjoni, Elezzjonijiet Każwali u b'Għażla)

Eżempji għal kalkolu ta' sigġijiet addizzjonali skont l-artikolu 52A tal-Kostituzzjoni

Eżempji skont is-subartikolu (1) tal-artikolu 52A tal-Kostituzzjoni

Eżempju A

In-numru totali ta' sigġijiet miksuba mis-sess l-inqas rappreżentat huwa disgħa (9) minn sebgha u sittin (67) sigġu totali tal-Kamra.

Il-proporzjon tas-sigġijiet assenjati lis-sess l-inqas rappreżentat huwa ta' tleltax punt tlieta u erbghin fil-mija (13.43%). Dan il-persentaġġ huwa taħt il-limitu ta' erbghin fil-mija (40%) u għalhekk id-dispożizzjonijiet tal-artikolu 52A tal-Kostituzzjoni għandhom japplikaw.

Sabiex jiġu stabbiliti n-numru ta' sigġijiet addizzjonali li għandu jiġi assenjat lis-sess l-inqas rappreżentat, il-Kummissjoni għandha tapplika l-ekwazzjoni li ġejja:

$$\frac{9 + x}{67 + x} = 0.40$$

$$9 + x = 0.40 (67 + x)$$

$$9 + x = 26.8 + 0.40x$$

$$x - 0.4x = 26.8 - 9$$

$$0.6x = 17.8$$

$$x = 29.67$$

Il-figura ta' 29.67 għandha titniżżel għall-eqreb numru biż-żewġ shih 28, sabiex tiżgura li n-numru totali ta' siggijiet ma jeċċedix l-erbghin fil-mija (40%). Madankollu, peress li n-numru massimu ta' siggijiet addizzjonali li jistgħu jiġu assenjati huwa ta' 12, it-28 għandu jitnaqqas għal 12.

Eżempju B

In-numru totali ta' siggijiet miksuba mis-sess l-inqas rappreżentat huwa ta' tlieta u għoxrin (23) minn disgħa u sittin (69) siggu totali tal-Kamra.

Il-proporzjon tas-siggijiet assenjati lis-sess l-inqas rappreżentat huwa ta' tlieta u tletin punt tlieta u tletin fil-mija (33.33%), Il-persentaġġ huwa taħt il-limitu ta' erbghin fil-mija (40%) u għalhekk id-dispożizzjonijiet tal-artikolu 52A tal-Kostituzzjoni għandhom japplikaw.

Sabiex jiġi stabbilit in-numru ta' siggijiet addizzjonali li għandu jiġi assenjat lis-sess l-inqas rappreżentat, il-Kummissjoni għandha tapplika l-ekwazzjoni li ġejja:

$$\frac{23 + x}{69 + x} = 0.40$$

$$23 + x = 0.40 (69 + x)$$

$$23 + x = 27.6 + 0.40x$$

$$x - 0.4x = 27.6 - 23$$

$$0.6x = 4.6$$

$$x = 7.67.$$

Il-figura ta' 7.67 għandha titniżżel għall-eqreb numru biż-żewġ shih, b'hekk aġġustata għal sitt (6) siggijiet addizzjonali."

Żieda ta' regolament ġdid ma' Skeda Tlettax-A li tinsab mal-Att prinċipali,

10. Minnufih wara r-regolament 21 ta' Skeda Tlettax-A li tinsab

mal-Att prinċipali għandu jiżdied ir-regolament ġdid li ġej:

"Membri addizzjonali skont l-artikolu 52A tal-Kostituzzjoni. 21A. Għall-fini biex jiġu eletti l-membri addizzjonali, jekk ikun hemm bżonn, mitluba skont l-artikolu 52A tal-Kostituzzjoni, ir-regoli u r-regolamenti li jinsabu fit-Taqsima IV li tinsab mat-Tlethtax-il Skeda għandhom japplikaw."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 448 tal-14 ta' April, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

A 450

I assent.

(L.S.)

GEORGE VELLA
President

20th April 2021

ACT No. XX of 2021

AN ACT to amend the Constitution of Malta and the General Elections Act to ensure de facto equality between men and women in politics.

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.

- 1.** The short title of this Act is the Constitution of Malta and the General Elections (Amendment) Act, 2021.

PART I

Amendments to the Constitution of Malta

Amendments to the Constitution of Malta.

- 2.** This Part amends the Constitution of Malta and this Part shall be read and construed as one with the Constitution of Malta, hereinafter in this Part referred to as "the Constitution".

Addition of new article 52A to the Constitution.

- 3.** Immediately after article 52 of the Constitution there shall be

added the following new article:

"Additional
seats for
under-
represented
sex.

52A. (1) If at a general election which is contested by two or more political parties and in which only candidates of two parties are elected or in the eventuality of an election result as provided for in sub-paragraphs (i) and (ii) of the proviso to sub-article (1) of article 52 and in the event that the number of Members of Parliament of the under-represented sex, elected by virtue of article 52, inclusive of those members elected at a casual election in terms of the relevant regulations, is less than forty per cent (40%) of all the Members of Parliament, then the number of Members of Parliament shall increase by not more than twelve (12) Members of the under-represented sex:

Provided that the number of Members of Parliament of the under-represented sex elected by virtue of article 52 added to the members of the under-represented sex elected by virtue of this article shall not exceed forty per cent (40%) of the total number of elected Members of Parliament making up the House.

The candidates elected by virtue of this article are to be apportioned equally between the absolute majority party or the relative majority party and the minority party.

(2) Such candidate or candidates belonging to the under-represented sex and who are candidates of the party or parties which shall be credited with the additional seats, and which were credited by the Electoral Commission at the last count with the highest or next higher number of votes without being elected, irrespective of the division in which such highest or next higher number of votes occur, shall be declared by the Electoral Commission as elected to fill the additional seats created by sub-article (1):

Provided that in the event that the number of candidates established under this article is not reached, following the application of the preceding sub-article, such candidates belonging to the under-represented sex shall be declared by the Electoral Commission to be elected to fill the remaining additional seats created by this article who, being candidates of the party which is to be credited with the additional seats, were ranked on a national basis by the Electoral Commission with the highest or next higher number of percentage quota obtained on the basis of their respective final count vote before elimination in relation to the quota of the electoral division contested:

Provided further that in the event that the number of candidates established under this article is not reached as foreseen in this sub-article, the seats thereafter remaining vacant shall be filled by the co-option of a Member or Members by the House and such Member or Members shall be qualified to be elected as a Member of the House as established under article 53, shall not be subject to any disqualifications for membership of the House as provided under article 54 and shall belong to the under-represented sex.

(3) For the purpose of this article, elected and unelected candidates who are identified as gender-neutral persons in their official documentation, shall be counted with the under-represented sex.

(4) This article shall remain in force until the expiry of the period of twenty (20) years from the date of its coming into force, unless revoked or re-enacted with or without modification by means of an Act of Parliament according to the provisions of this Constitution."

Amendment of article 61A of the Constitution.

4. In paragraph (b) of sub-article (2) of article 61A of the Constitution, the words "the voters therein." shall be substituted by the words "the voters therein:" and immediately thereafter there shall be added the following new proviso:

"Provided that this paragraph shall not apply for the purpose of the first proviso of sub-article (2) of article 52A of the Constitution."

Amendment of article 66 of the Constitution.

5. In paragraph (b) of sub-article (2) of article 66 of the Constitution, for the words "articles 51, 52, 56, 57, 60, 61 and 64A," there shall be substituted the words "articles 51, 52, 52A, 56, 57, 60, 61 and 64A,".

PART II

Amendments to the General Elections Act

Amendments to the General Elections Act. Cap. 354.

6. This Part amends the General Elections Act and it shall be read and construed as one with the General Elections Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 7 of the principal Act.

7. In sub-article (2) of article 7 of the principal Act, the words "eight members as Electoral Commissioners." shall be substituted by the words "ten (10) members as Electoral Commissioners; such members shall reflect equal representation between sexes, in any case not having less than four (4) members of every sex."

8. Immediately after the Annex to the Thirteenth Schedule to the principal Act, there shall be added the following new regulation:

Addition of new regulation in the Thirteenth Schedule to the principal Act.

"Additional members in terms of article 52A of the Constitution.

24. For the purpose of electing the additional members, if any, required in terms of article 52A of the Constitution, the Commission shall:

(a) establish the number of members elected to the House by sex and determine the under-represented sex as the sex with the lowest number of members elected to the House;

(b) establish the percentage of seats attained by the under-represented sex based on the number of elected members of the under-represented sex elected to the House as a proportion of the number of elected members to the House by dividing the number of elected members of the under-represented sex with the number of elected members multiplied by hundred; and

(c) in the event that the percentage of the under-represented sex is below forty percent (40%), the Commission shall assign up to a maximum of twelve (12) additional seats by applying the following equation:

A = total number of seats attained by the under-represented sex;

B = total number of members elected to the House;

x = additional seats created in terms of article 52A of the Constitution;

0.40 = the denominator that represents the total number of seats, including the additional seats created in terms of article 52A of the Constitution.

$$\frac{(A) + x}{(B) + x} = 0.40$$

Subject to the provisions of article 52(1) of the Constitution, the number of additional seats resulting from the application of the equation shall be rounded down to the nearest even integer to ensure that the additional seats allocated to the under-represented sex in terms of article 52A of the Constitution shall be an even integer and the elected members of the under-represented sex elected to the House shall not exceed forty percent (40%)."

Addition of new Annex to the Thirteenth Schedule to the principal Act.

9. Immediately after regulation 24 of the Thirteenth Schedule to the principal Act, as added by clause 8, there shall be added the following new Annex:

"Annex to the Thirteenth Schedule

Art. 52A of the Constitution

Regulation 23A of the General Elections (Sorting of Ballot Papers, Casual Elections, and Co-Opting)

Regulations 1991

Examples for calculating additional seats in terms of article 52A of the Constitution

Examples in terms of sub-article (1) of article 52A of the Constitution

Example A

The total number of seats attained by the under-represented sex is nine (9) from a total of sixty-seven (67) seats in the House.

The proportion of seats assigned to the under-represented sex is thirteen point forty-three per cent (13.43%). This percentage is below the forty per cent (40%) threshold and so the provisions of article 52A of the Constitution shall apply.

To establish the number of additional seats to be assigned to the under-represented sex, the Commission shall apply the following equation:

$$\frac{9 + x}{67 + x} = 0.40$$

$$9 + x = 0.40 (67 + x)$$

$$9 + x = 26.8 + 0.40x$$

$$x - 0.4x = 26.8 - 9$$

$$0.6x = 17.8$$

$$x = 29.67$$

The figure of 29.67 shall be rounded down to the nearest even integer 28, to ensure that the total number of seats does not exceed forty per cent (40%). However, given that the maximum number of additional seats which can be assigned is 12, the 28 are to be reduced to 12.

Example B

The Total number of seats attained by the under-represented sex is twenty-three (23) from a total of sixty-nine (69) seats in the House.

The proportion of seats assigned to the under-represented sex is thirty-three point thirty-three per cent (33.33%). This percentage is below the 40% threshold and so the provisions of article 52A of the Constitution shall apply.

To establish the number of additional seats to be assigned to the under-represented sex, the Commission shall apply the following equation:

$$\frac{23 + x}{69 + x} = 0.40$$

$$23 + x = 0.40 (69+x)$$

$$23 + x = 27.6 + 0.40x$$

$$x - 0.4x = 27.6 - 23$$

$$0.6x = 4.6$$

$$x = 7.67.$$

The figure of 7.67 shall be rounded down to the nearest even integer, hence adjusted to six (6) additional seats."

10. Immediately after regulation 21 of the Thirteenth-A Schedule to the principal Act there shall be added the following new regulation:

"Additional members in terms of article 52A of the Constitution.

21A. For the purpose of electing the additional members, if any, required in terms of article 52A of the Constitution, the rules and regulations found in Part IV to the Thirteenth Schedule shall be applied."

Addition of new regulation to the Thirteenth-A Schedule to the principal Act.

A 456

Passed by the House of Representatives at Sitting No. 448 of the
14th April, 2021.

ANĠLU FARRUGIA

Speaker

RAYMOND SCICLUNA

Clerk of the House of Representatives