

**ABBOZZ TA' LIĠI
msejjah**

ATT sabiex jemenda l-Att dwar Opportunitajiet Indaqs (Persuni b'Diżabilità), u biex jipprovdi għal materji oħra anċillari jew konsegwenzjali għalih, Kap 413.

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 li jemenda l-Att dwar Opportunitajiet Indaqs (Persuni b'Diżabilità), u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar Opportunitajiet Indaqs (Persuni b'Diżabilità), hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

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2. L-artikolu 2 tat-Taqsima I tal-Att prinċipali għandu jiġi emendat kif ġej:

Emendi għat-Taqsima I tal-Att prinċipali.

(a) It-tifsiriet "aġenzija ta' impieg", "akkomodazzjoni", "akkomodazzjoni raġonevoli" u "awtorità edukattiva", għandhom jiġu mħassra.

(b) Minnufih wara t-tifsira "Bord", għandha tizdied it-tifsira ġdida li ġejja:

" "drittijiet sostantivi tal-Konvenzjoni" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità"."

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(ċ) It-tifsiriet "diżabilità", "diżordni mentali", "drittijiet ta' persuni b'diżabilità", "età pensjonabbli", "età ta' skola obbligatorja", "fastidju", "foster carer", "impieg", "istituzzjoni edukattiva" u "komunikazzjoni", għandhom jiġu mħassra.

(d) It-tifsira "Konvenzjoni" għandha tiġi sostitwita b'din li ġejja:

" "Konvenzjoni" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità;"."

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(e) Minnufih wara t-tifsira "Konvenzjoni", kif sostitwita, għandha tizdied it-tifsira ġdida li ġejja:

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" "Kumitat tal-Ġnus Magħquda" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità;"

(f) It-tifsira "kuntratt ta' servizz" għandha tiġi mhassra;

(g) It-tifsiriet "lingwa" u "mezz assistiv" għandhom jiġu mhassra;

(h) It-tifsiriet "minuri" u "nuqqas" għandhom jiġu mhassra;

(i) Minnufih wara t-tifsira "organizzazzjoni volontarja", għandhom jiżdiedu t-tifsiriet godda li ġejjin:

" "Panel" tfisser il-Panel imwaqqaf permezz tal-artikolu 33B;"

"persuna b'diżabilità" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità;

(j) It-tifsiriet "persuna b'diżabilità kwalifikata" u "proprjetà" għandhom jiġu mhassra.

(k) Minnufih wara t-tifsira "persuna b'diżabilità", kif miżjuda, għandha tiżdied it-tifsira ġdida li ġejja:

"Protokoll mhux Obbligatorju" għandu jkollha l-istess tifsira mogħtija lilha fl-artikolu 2 tal-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità;"

(l) It-tifsiriet "tibdil" u "wild" għandhom jiġu mhassra.

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Thassir tat-
Taqsimi II tal-
Att prinċipali.

3. It-Taqsimi II tal-Att prinċipali, għandha tiġi mhassra.

Thassir tat-
Taqsimi III tal-
Att prinċipali.

4. It-Taqsimi III tal-Att prinċipali, għandha tiġi mhassra.

Thassir tat-
Taqsimi IV tal-
Att prinċipali.

5. It-Taqsimi IV tal-Att prinċipali, għandha tiġi mhassra.

Emendi għat-
Taqsimi V tal-
Att prinċipali.

6. It-Taqsimi V tal-Att prinċipali, għandha tiġi emendata kif ġej:

(1) Fis-subartikolu (1) tal-artikolu 20 tal-Att prinċipali, il-kliem "tiġi stabbilita r-raġonevolezza ta' kull azzjoni li għandha ssir minn persuna skont id-dispożizzjonijiet ta' dan l-Att," għandhom jiġu sostitwiti bil-kliem "tiġi stabbilita r-raġonevolezza ta' kull azzjoni li għandha ssir minn persuna skont id-dispożizzjonijiet ta' dan l-Att, jew tal-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità".

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(2) L-artikolu 20A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "għal perijodu ta' tliet snin" għandu jiġi mħassar;

(b) is-subartikolu (2) tiegħu, għandu jiġi sostitwit b'dan li ġej:

"Il-Bord għandu jitlaqqa' kull meta dan ikun neċessarju, wara talba mill-Kummissarju, u għall-iskopijiet ta' kull tali sejha, panel ta' mhux inqas minn tliet (3) u mhux aktar minn seba' (7) persuni għandu jiġi appuntat, inkluż iċ-Chairperson u l-Viċi Chairperson tal-Bord.";

(ċ) is-subartikolu (3) tiegħu, għandu jiġi sostitwit b'dan li ġej:

"Il-maġġoranza tal-persuni illi jpoġġu fuq panel għal kull sejha tal-Bord għandhom ikunu persuni b'diżabilità, u l-persuni l-oħra għandhom jinkludu tal-inqas persuna waħda (1) illi tagħti sostenn lil persuna b'diżabilità illi ma tistax tirrappreżenta lilha nfisha, u tali persuni għandhom ikunu rappreżentanti ta' entitajiet pubbliċi, esperti fis-settur, inkluż esperti tekniċi, jew rappreżentanti ta' organizzazzjonijiet rappreżentattivi ta' persuni b'diżabilità, u l-għażla tagħhom għas-sejha partikolari għandha tirrefletti bl-aħjar mod is-suġġett illi jkun fuq l-aġenda ta' laqgħa partikolari tal-Bord.";

(d) is-subartikolu (4) tiegħu, għandu jiġi sostitwit b'dan li ġej:

"Il-Bord għandu jkun ippresedut miċ-Chairperson, assistit minn Viċi Chairperson, illi għandhom ikunu t-tnejn li huma persuni b'diżabilità,

appuntati mill-Kummissarju għal perijodi rinnovabbli ta' tliet (3) snin, u li jibqgħu fir-rwoli tagħhom matul tali perijodu għas-sejhiet kollha tal-Bord imlaqqa' matul tali perijodu.";

(e) fis-subartikolu (11) tiegħu, il-kliem "f'każ li dik il-persuna li trid tagħmel it-talba tagħha tinħtieg l-għajnuna biex tifformula dik it-talba bil-fomm u, jew bil-miktub, ikun id-dmir tal-Kummissarju li jieħu l-passi raġonevoli biex jipprovdi għajnuna xierqa" għandhom jiġu sostitwiti bil-kliem "f'każ li dik il-persuna li bi ħsiebha tagħmel talba teħtieg sostenn sabiex tifformula dik it-talba bil-fomm u, jew bil-miktub, għandu jkun id-dmir tal-Kummissarju li jieħu l-passi raġonevoli biex jipprovdi sostenn xieraq".

Emendi għat-Taqsima VI tal-Att prinċipali.

7. It-Taqsima VI tal-Att prinċipali għandha tiġi emendata kif ġej:

(1) Il-paragrafu (1) tal-artikolu 22 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subparagrafi (a) u (b) tiegħu, għandhom jiġu mħassra;

(b) is-subparagrafu (e) tiegħu, għandu jiġi mħassar;

(ċ) is-subparagrafi (n) u (o) tiegħu, għandhom jiġu mħassra;

(d) minnufih wara s-subparagrafu (t) tiegħu, għandhom jiżdiedu s-subparagrafi godda li ġejjin:

"(u) tagħmel moniteragg ta' faċilitajiet illi joffru servizzi lil persuni b'dizabilità u li jkunu liċenzjati skont l-Att dwar l-Awtorità ta' Standards ta' Harsien Soċjali, u tingagga f'azzjonijiet rilevanti ta' nvestigazzjoni, konformità u nfużar f'dan ir-rigward;

(v) sabiex tissodisfa r-rwol ta' awtorità ta' sorveljanza tas-suq ai termini tad-Direttiva (EU) 2019/882 dwar ir-rekwiżiti ta' aċċessibilità għall-prodotti u għas-servizzi, permezz tat-Taqsima dwar l-Ilmenti u t-Taqsima dwar l-Infużar tagħha.".

(2) Fis-subartikolu (7) tal-artikolu 24 tal-Att prinċipali, il-kliem "mill-Ministru wara konsultazzjoni mal-Kummissarju"

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għandhom jiġu sostitwiti bil-kliem "mill-Kummissarju".

(3) L-artikolu 26 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "b'dawk il-patti u l-kondizzjonijiet indikati mill-Ministru" għandhom jiġu mħassra;

(b) fis-subartikolu (2) tiegħu, il-kliem "wara li jikkonsulta lill-Ministru" għandhom jiġu mħassra.

8. It-Taqsima VII tal-Att prinċipali għandha tiġi emendata kif ġej:

Emendi għat-Taqsima VII tal-Att prinċipali.

(1) Minnufih qabel l-artikolu 32 tal-Att prinċipali, it-titolu tat-Taqsima VII għandu jiġi sostitwit bit-titolu "AĊĊESS GĦALL-ĠUSTIZZJA", u minnufih wara t-titolu, kif sostitwit, għandu jiżdied is-segweni sub-titolu:

"TITOLU 1 – ILMENTI, INVESTIGAZZJONIJIET U NFURZAR".

(2) L-artikolu 32 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikoli (1), (2) u (3) tiegħu, għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (2), (3) u (4) rispettivament;

(b) minnufih qabel is-subartikolu (2) tiegħu, kif sostitwit, għandu jiżdied is-subartikolu (1) ġdid li ġej:

"(1) Il-Kummissjoni għandu jkollha s-setgħa illi tagħmel spezzjonijiet u nvestigazzjonijiet fi kwalunkwe okkażjoni u għal kull skop relatat mar-responsabbiltajiet u l-funzjonijiet illi għandha l-istess Kummissjoni taħt l-Att u l-liġi sussidjarjamagħmula tahtu, kif ukoll kull liġi oħra applikabbli, inkluż iżda mhux limitatament għar-Regolamenti dwar l-Istandards għall-Aċċessibilità għal Kulhadd f'Ambjent Mibni. Salv kif altrimenti provdut f'dan l-Att, il-Kummissjoni għandu jkollha ġurisdizzjoni esklussiva fir-rigward ta' materji illi jinvolvu kwalunkwe dritt sostantiv tal-Konvenzjoni, jew inkella inizzjati taħt kwalunkwe dispożizzjoni ta' dan l-Att, sakemm id-diskriminazzjoni allegata f'tali materji ma tkunx ta' natura multipla jew

L.S. 413.03.

intersettorjali, u hija għandu jkollha wkoll is-saħħa illi tinforza s-sanzjonijiet in conformità mal-Att.";

(c) fis-subartikolu (2) tiegħu, il-kliem "jikser xi waħda mid-disposizzjonijiet ta' dan l-Att" għandhom jiġu sostitwiti bil-kliem "imur kontra xi wieħed mid-drittijiet sostantivi tal-Konvenzjoni, jew inkella jikser xi waħda mid-disposizzjonijiet ta' dan l-Att";

(d) fis-subartikolu (3) tiegħu, il-kliem "jikser xi waħda mid-disposizzjonijiet ta' dan l-Att" għandhom jiġu sostitwiti bil-kliem "imur kontra xi wieħed mid-drittijiet sostantivi tal-Konvenzjoni, jew inkella jikser xi waħda mid-disposizzjonijiet ta' dan l-Att", u s-subparagrafu (b) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(b) kull persuna msemmija fl-artikolu 33A ta' dan l-Att";

(e) fis-subartikolu (4) tiegħu, il-kliem "persuna tkun tixtieq tagħmel ilment bis-saħħa tas-subartikolu (2)" għandhom jiġu sostitwiti bil-kliem "persuna tkun bi ħsiebha tipprezenta ilment fit-termini tas-subartikolu (3)";

(f) minnufih wara s-subartikolu (4) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(5) Fl-eżerċizzju tas-setgħat imsemmija fis-subartikoli preċedenti, il-Kummissarju għandu jkun assistit mis-segwenti mekkaniżmi:

(a) it-Taqsima dwar l-
Investigazzjonijiet fi ħdan il-Kummissjoni illi
tinvestiga l-ilmenti; u

(b) it-Taqsima dwar l-Infurzar fi ħdan
il-Kummissjoni sabiex tiegħu s-segwenti miżuri
fil-konfront ta' xi persuna illi tikser kwalunkwe
dispożizzjoni ta' dan l-Att, jew ta' kull liġi oħra
illi t-Taqsima dwar l-Infurzar hija ntitolata illi
tinforza, jew illi tonqos milli taderixxi ma' xi
deċiżjoni mogħtija mit-Taqsima dwar l-
Investigazzjonijiet jew mill-Bord li
jiddetermina x'inhu raġonevoli li tista':

(i) timponi multi amministrattivi
skont id-dispożizzjonijiet ta' dan l-Att, u;

(ii) tordna il-waqfien ta' kwalunkwe att jew ommissjoni illi jiksru xi dispożizzjoni tal-Att jew ta' xi liġi oħra illi t-Taqsima dwar l-Infurzar hija ntitolata illi tinforza;

(c) it-Taqsima dwar l- Investigazzjonijiet u t-Taqsima dwar l-Infurzar għandhom ukoll iservu għall-qadi tal-funzjoni tal-Kummissjoni bħala l-awtorità tas-sorveljanza tas-suq fir-rigward tad-Direttiva (EU) 2019/882 dwar ir-rekwiżiti ta' aċċessibilità għall-prodotti u għas-servizzi, fir-rigward ta' liema taġixxi flimkien ma' stakeholders oħra rilevanti, lokalment u fuq il-livell tal-Unjoni Ewropea, u f'konformità ma' leġislazzjoni primarja u sekondarja oħra ta' rilevanza.

(6) Fil-qadi tad-dmirijiet tagħha fit-termini ta' dan l-artikolu, il-Kummissjoni għandha tingħata d-dritt illi tidhol f'kull fond, pubbliku jew privat, għall-iskopijiet segwenti:

(a) li tagħmel l-investigazzjonijiet, l-ispezzjonijiet, jew is-surveys;

(b) li taċċerta illi xejn li huwa kuntrarju għad-dispożizzjonijiet tal-Att, għar-regolamenti magħmula tahtu, jew għal xi kundizzjoni mposta mit-Taqsima dwar l-Investigazzjonijiet jew tal-Bord li jiddetermina x'inhu raġonevoli, qiegħed isehh jew inkella sehħ, u tiehu kull azzjoni skont dan;

(c) li taċċerta jew tirriproduci kull data jew informazzjoni skont kif rikjesta mill-Kummissarju;

(d) li tagħmel pjanti ta' kwalunkwe fond u tiehu ritratti tal-istess fond wara d-dhul f'tali fond, f'konformità ma' dan is-subartikolu;

(e) li tagħmel kull haga oħra anċillari jew konsegwenzjali f'dan ir-rigward.

(7) Fil-każ ta' dar residenzjali jew kondominju, tali dritt ta' dhul, spezzjoni u moniteragg kif provdut f'dan l-Att, għandu jkun soġġett għal notifikazzjoni minn qabel ta' mill-inqas tmienja u erbghin siegħa (48), u ma għandux japplika qabel is-sebgha u nofs ta' filgħodu u wara s-sebgha ta' filgħaxija u, fejn tali dhul, spezzjoni jew moniteragg ikunu rifjutati lill-Kummissjoni, kull Maġistrat illi jintwera raġuni valida mill-Kummissarju jew minn wieħed mill-uffiċjali tiegħu, taħt ġurament, jista' bil-liġi johroġ mandat illi jawtorizza tali dhul, spezzjoni jew moniteragg.

(8) Kull persuna illi, meta jiġi prodott il-mandat maħruġ skont is-subartikolu (7), tirrifjuta l-permess għal tali dhul, jew inkella tostakola tali spezzjoni jew moniteragg, meta tinsab haġja, tista' tehel multa illi ma teċċedix mija u sittax-il euro u sebgha u erbghin ċenteżmu (€116.47), u kull persuna illi tostakola, thedded, tattakka jew timpedixxi lil xi ufficijal tal-Kummissjoni mill-qadi ta' dmirijiet taħt dan l-Att, meta tinsab haġja, tista' tehel piena ta' prigunerija illi ma teċċedix tliet snin, jew multa ta' mhux aktar minn mitt elf euro (€100,000), jew l-imsemmija multa u l-prigunerija flimkien.

(9) Kull persuna awtorizzata skont dan l-artikolu għandha tipproduci mezz ta' identifikazzjoni maħruġ mill-Kummissjoni."

(3) Minnufih wara l-artikolu 32 tal-Att prinċipali, għandhom jiżdiedu l-artikoli godda li ġejjin:

Raġonevolezza. 32A. (1) It-Taqsima dwar l-Infurzar għandha taġixxi wara illi tkun debitament awtorizzata li tagħmel dan mit-Taqsima dwar l-Investigazzjonijiet, sussegwentement illi tkun għamlet l-investigazzjonijiet tagħha, kif stipulat f'dan l-Att.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), fejn it-Taqsima dwar l-Infurzar ikollha evidenza *prima facie* li l-ksur jirrapreżenta tbatija immedjata għall-parti leża, it-Taqsima dwar l-Infurzar tista' tkun diretta mit-Taqsima dwar l-Investigazzjonijiet, sabiex tiegħu miżuri provviżorji urgenti biex turrimedja s-sitwazzjoni, prevja t-terminazzjoni tal-proċess tal-investigazzjonijiet, inkluż il-waqfien immedjat tal-att jew l-ommissjoni illi qed jikkontribwixxu għall-ksur.

Iżda dik il-persuna illi kontraha tali miżuri jkunu kontemplati, għandha sussegwentement, tingħata opportunità raġonevoli sabiex tagħti l-opinjoni tagħha u tipproponi kwalunkwe rimedji.

32B. Fit-tweqqiq tal-investigazzjonijiet tagħha, it-Taqsima dwar l-Investigazzjonijiet għandha tkun iggwidata mill-prinċipju ta' raġonevolezza kif stabbilit fl-artikolu 20, u tista' tikkonsulta mal-Bord sabiex tiddetermina x'inhu raġonevoli, skont ma jkun il-każ, bl-investigazzjonijiet ikunu sospiżi pendenti l-eżitu ta' kull tali referenza magħmula mit-Taqsima dwar l-Investigazzjonijiet lill-Bord.

Multa amministrattiva.

32Ċ. (1) Il-multa amministrattiva mposta ma' għandhiex, sakemm ma jkunx ipprovdut mod ieħor, taħt dan l-Att, teċċedi elfejn, tliet mija u disgħa u għoxrin euro u sebgha u tletin ċenteżmu (€2,329.37) għal kull ksur jew nuqqas ta' konformità u, jew mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (€232.94) għal kull ġurnata illi fiha jissussisti l-ksur jew in-nuqqas ta' konformità, skont il-każ:

Iżda kull multa mposta kuljum tista' tkun datata b'lura għad-data tal-kummissjoni jew il-bidu tal-ksur.

(2) Sabiex jiġi ddeterminat l-ammont ta' multa amministrattiva, għandha tittiehed kunsiderazzjoni partikolari tan-natura u l-estent tal-ksur, id-durata tagħha, u l-impatt fuq id-drittijiet miksura.

Appelli minn deċiżjonijiet.

32D. (1) It-Tribunal ta' Reviżjoni Amministrattiva għandu jkun kompetenti illi jisma' u jiddetermina appelli minn deċiżjonijiet tat-Taqsima dwar l-Investigazzjonijiet kif provdut f'dan l-Att jew f'xi liġi oħra.

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(2) Id-dispożizzjonijiet tal-Att dwar il-Ġustizzja Amministrattiva, in kwantu japplikaw għat-Tribunal ta' Reviżjoni Amministrattiva, għandhom japplikaw għal kwalunkwe proċedura quddiem l-imsemmi Tribunal, u l-kliem "amministrazzjoni pubblika" fl-imsemmija legiżlazzjoni għandhom ikunu mifhuma bħala referenza għat-Taqsima dwar l-Investigazzjonijiet.

32E. (1) Id-dritt għal appell lit-Tribunal għandu jkun kompetenti lil kull persuna li lilha d-deċiżjoni hi ndirizzata.

(2) Appell minn deċiżjoni tat-Taqsima dwar l-Investigazzjonijiet għandha ssir permezz ta' rikors u għandu jiġi prezentat lis-Segretarju tat-Tribunal fi żmien għoxrin (20) gurnata mid-data li fiha tali deċiżjoni tkun giet notifikata.

32F. Fid-determinazzjoni ta' appell, it-Tribunal għandu jqis il-merti tal-appell, u jista' jikkonferma jew iħassar id-deċiżjoni appellata *in toto* jew *in parte*, u għandu jagħti r-raġunament għad-deċiżjoni tiegħu bil-miktub, u jagħmel tali deċiżjoni pubblika u jikkomunikaha lill-partijiet tal-appell."

(4) Minnufih qabel l-artikolu 33A tal-Att prinċipali, għandu jiżdied is-segwentu sub-titolu:

"TITOLU 2 – RIMEDJI LEGALI".

(5) Minnufih wara l-artikolu 33A tal-Att prinċipali, għandhom jiżdiedu l-artikoli godda li ġejjin:

Panel għal
Rimedju taħt il-
Konvenzjoni.

"33B.(1) Għandu jkun hemm Panel fi ħdan il-Kummissjoni, imsejjaħ il-Panel għal Rimedju taħt il-Konvenzjoni, li għandu jkun kompetenti sabiex jisma' talbiet illi jallegaw illi wiehed jew iktar mid-drittijiet sostantivi tal-Konvenzjoni ġew miksura, u għandu jkun kompost minn tliet (3) persuni, inkluż Chairperson, illi jkunu persuni b'diżabilita jew persuni li għexu l-esperjenza ta' diżabilita, appuntati mill-Kummissarju, illi minn żmien għal żmien, ikun jista' jappunta aktar minn Panel wiehed.

(2) Salv għad-dispożizzjonijiet l-oħra ta' dan l-Att, il-Panel għandu ġurisdizzjoni esklussiva fir-rigward ta' materji illi jinvolvu kwalunkwe dritt sostantiv tal-Konvenzjoni, sakemm id-diskriminazzjoni allegata f'tali materji ma tkunx waħda ta' natura multipla jew intersezzjonali.

(3) Il-persuni illi jiffurmaw il-Panel għandhom ikunu appuntati għal terminu ta' sentejn (2), u matul il-mandat tagħhom, ikunu biss jistgħu jiġu mneħħija mill-kariga mill-Kummissarju għall-istess raġunijiet illi minhabba fihom jista' jitneħħa Maġistrat.

(4) Il-Panel ikun inkarigat illi jagħmel determinazzjoni fir-rigward ta' kull talba, sottomessa lil minn kull persuna b'diżabilità f'isimha, jew minn kull persuna f'isem kull persuna oħra b'diżabilità, għal min, jew flimkien ma' min, tkun awtorizzata illi teżerçita l-kapaçità legali.

(5) Il-Panel għandu jirrispetta u japplika dawk il-prinçipji ta' mgieba amministrattiva tajba stipulati fl-artikolu 3 tal-Att dwar il-Ġustizzja Amministrattiva, u fl-għoti tad-deçizjonijiet tiegħu, l-imsemmi Panel għandu jagħmel dan a bażi tal-ekwità, u jkun iggwidat mid-dispożizzjonijiet tal-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità, inkluż l-Iskedi annessi miegħu.

(6) Għandu jkun hemm numru ta' kmamar tal-Panel skont mal-Kummissarju jippreskrivi. It-talbiet għandhom jiġu assenjati lill-varji Panels a bażi ta' rotazzjoni minn dawk l-uffiçjali maħtura mir-Registru tal-Panel.

33Ċ. (1) It-talbiet għandhom jiġu sottomessi lill-Panel fi żmien sentejn (2) minn kull istanza ta' allegata diskriminazzjoni minhabba f'diżabilità, fir-rigward ta' kwalunkwe mid-drittijiet sostantivi tal-Konvenzjoni, permezz ta' kwalunkwe waħda mill-formati preskritti permezz ta' regolamenti magħmula mill-Ministru taħt dan l-Att, u għandu jkun hemm indikat fihom kull persuna jew entità li fil-konfront tagħhom ikun qiegħed jiġi allegat illi nkiser wieħed jew iktar mid-drittijiet sostantivi tal-Konvenzjoni.

(2) Id-dritt illi tiġi sottomessa petizzjoni lill-Panel, għandha tkun mingħajr preġudizzju għal kull azzjoni oħra fir-rigward tal-istess materja msemmija fil-petizzjoni, li tkun legalment disponibbli.

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tal-2021.

Il-proçeduri
quddiem il-
Panel għal
Rimedju taħt il-
Konvenzjoni.

(3) Kwalunkwe rimedju pretiż meta ssir petizzjoni fit-termini tas-subartikolu (1), ma għandux ikun rimedju ta' natura pekunarja.

Il-konvenuti għandhom jibgħatu s-sottomissjonijiet tagħhom fi żmien ħmistax-il (15) gurnata.

(4) Il-Panel għandu jipproċessa immedjatament il-petizzjonijiet riċevuti, u jibgħat rikonoxximent fi żmien tliet (3) ijiem ta' xogħol minn meta tali petizzjoni tkun giet irreġistrata, u din għandha tintbagħat immedjatament lill-konvenuti ndikati f'tali petizzjoni għas-sottomissjonijiet tagħhom.

(5) Wara illi jkun irċieva l-informazzjoni kollha meħtieġa, inkluż is-sottomissjonijiet tal-konvenuti ndikati fil-petizzjoni u kull dokumentazzjoni oħra neċessarja, il-Panel għandu immedjatament jiddeċiedi dwar il-petizzjoni, fi żmien mhux iktar minn ħmistax-il (15) gurnata minn meta l-imsemmi Panel ikun irċieva l-istess sottomissjonijiet mingħand il-konvenuti ndikati fil-petizzjoni.

(6) Meta jkun qiegħed jiddeċiedi dwar petizzjoni, il-Panel jista' jagħmel dawk l-ordnijiet, joħroġ dawk l-atti u jagħti dawk id-direttivi li jqis xierqa sabiex jinforza, jew jiżgura l-infurzar, tad-drittijiet tal-persuna b'diżabilità, għat-tgawdija ta' liema l-persuna konċernata hija ntitolata, fir-rigward ta' kwalunkwe persuna jew entità msemmija fil-petizzjoni sottomessa lill-**istess** Panel, u li fil-konfront tagħhom ikun qiegħed jiġi allegat illi nkiser wieħed jew iktar mid-drittijiet sostantivi tal-Konvenzjoni, u fir-rigward ta' tali infurzar, it-Taqsima dwar l-Infurzar fi ħdan il-Kummissjoni għandha wkoll teżerċita s-setgħat mogħtija lilha fit-termini tal-artikolu 32(5)(b) tal-Att.

Iżda li l-Panel ma huwiex kompetenti sabiex joħroġ sanzjonijiet ta' natura pekunarja bħala rimedju fir-rigward ta' kwalunkwe talba sottomessa quddiem tali Panel.

(7) Jekk il-konvenuti ndikati fil-petizzjoni ma jibagħtux is-sottomissjonijiet jew id-dokumentazzjoni mitluba fi żmien ħmistax-il (15) gurnata minn meta dawn ikunu ntabu biex jagħmlu dan, il-Panel għandu immedjatament jiddeċiedi dwar il-petizzjoni.

(8) Hekk kif il-Panel ikun wasal għal deċiżjoni, ir-Registru tal-Panel għandu jikkomunika l-imsemmija deċiżjoni lill-persuna li għamlet il-petizzjoni fi żmien ħamest (5) ijiem ta' xogħol.

Appelli lit-
Tribunal ta'
Reviżjoni
Amministrattiva

33D. (1) Kull applikant jew konvenut f'petizzjoni miġjuba quddiem il-Panel, jistgħu jappellaw mid-deċiżjoni tal-Panel, fir-rigward ta' punti ta' fatt jew ta' liġi deċiżi mill-Panel, fi żmien għoxrin (20) gurnata mid-data li fiha tali deċiżjoni tkun giet notifikata lill-imsemmija persuna li għamlet il-petizzjoni u lill-konvenut.

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(2) L-appell ai termini ta' dan l-artikolu għandu jsir quddiem it-Tribunal ta' Reviżjoni Amministrattiva, skont il-proċeduri stipulati fl-Att dwar il-Ġustizzja Amministrattiva u r-regolamenti preskritti tahtu.

Komunikazzjoni
mal-Kumitat
tal-Ġnus
Magħquda.

33E. (1) L-ebda persuna ma għandha tkun imfixkla fl-eżerċizzju tad-dritt tagħha li tikkomunika mal-Kumitat tal-Ġnus Magħquda skont id-dispożizzjonijiet tal-Protokoll mhux Obbligatorju.

Drittijiet taht l-
Att mingħajr
preġudizzju
għal drittijiet
ohra.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom ikunu mingħajr preġudizzju għal kwalunkwe azzjoni ohra li tista' tkun disponibbli taht l-Att, jew taht kwalunkwe liġi ohra."

(6) L-artikolu 34 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Proċeduri ċivili fir-rigward ta'
talba dwar diskriminazzjoni
minhabba f'diżabilità.

34. Meta ssir talba minn persuna li jkollha interess legali fi kwistjoni, sew jekk tkun istitwita mill-persuna b'diżabilità f'isimha, jew minn kwalunkwe persuna f'isem kull persuna ohra b'diżabilità, għal min, jew flimkien ma' min, tkun awtorizzata li teżerċita l-kapacità legali, li xi persuna ohra tkun allegatament wettqet xi att illegali ta' diskriminazzjoni kontriha, skont kif provdut fit-termini ta' dan l-Att, din għandha tkun isitwita b'azzjoni ċivili, jekk tali talba tkun tinkludi wkoll talba għad-danni; u d-danni fir-rigward ta' att illegali ta' diskriminazzjoni jistgħu ukoll jinkludu kumpens għal danni morali sew jekk dawn jinkludu jew le talba għal kumpens taht xi kap ieħor, ta' mhux iżjed minn hamest elef euro (€5,000), hekk kif il-qorti tista' tiddikjara.

(7) L-artikolu 34A tal-Att prinċipali għandu jiġi sostitwit

b'dan li ġejj:

L-oneru tal-prova
jinkombi fuq il-
konvenut.

34A. Meta, f'proċeduri legali istitwiti fit-termini ta' dan l-Att għal rimedju wara xi att illegali ta' diskriminazzjoni, il-persuna li istitwit tali proċeduri tistabbilixxi quddiem il-Qorti l-fatti li minnhom jista' jiġi prezunt li tkun seħħet diskriminazzjoni, l-oneru tal-prova għandu jkun fuq il-konvenut li jġib il-prova li ma kien hemm l-ebda ksur tad-dispożizzjonijiet ta' dan l-Att.

Emendi għat-
Taqsimi VIII
tal-Att
prinċipali.

9. It-Taqsimi VIII tal-Att prinċipali għandha tiġi emendata kif ġejj:

(1) L-artikolu 35 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġejj:

"Il-Ministru jista' jagħmel regolamenti ġeneralment sabiex jagħti effett lid-dispożizzjonijiet ta' dan l-Att u għall-infurzar tagħhom, u partikolarment, iżda mingħajr preġudizzju għall-ġeneralità ta' dak imsemmi qabel, sabiex jipprovdi għal kwalunkwe kwistjoni meħtieġa jew awtorizzata minn dan l-Att sabiex tiġi preskritta".

(2) L-artikolu 36 tal-Att prinċipali għandu jiġi mħassar.

(3) L-artikolu 37 tal-Att prinċipali għandu jiġi mħassar.

(4) Minnufih wara l-artikolu 37 tal-Att prinċipali, kif imħassar, għandu jidid l-artikolu ġdid li ġejj:

"Dispożizz-
joni
tranzitorja.

Att XXX tal-
2021.

Abbozz numru
XXX tal-
2021.

38. Kwalunkwe Qorti kompetenti li għandha quddiemha proċeduri pendenti istitwiti taħt l-Att, tista' tapplika ukoll id-dispożizzjonijiet tal-Att li jemenda l-Att dwar Opportunitajiet Indaq (Persuni b'Diżabilità) u, jew l-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità sabiex tasal għad-deċiżjoni tagħha f'tali proċeduri pendenti."

Thassir tar-
Regolamenti
dwar Proċedura
għall-
Investigazzjoni
ta' Ilmenti.
L.S. 413.01.

10. Ir-Regolamenti dwar Proċedura għall-Investigazzjoni ta' Ilmenti qegħdin permezz ta' dan l-Att jiġu mħassra.

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jiġi emendat l-Att dwar Opportunitajiet Indaq (Persuni b'Diżabilità) (Kap. 413), u biex jipprovdi għal materji anċillari jew konsegwenzjali f'dan ir-rigward, partikolarment sabiex jiżgura t-twettiq tal-obbligi ta' Malta fit-termini tal-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità u l-Prinċipji tal-Ġnus Magħquda relattivi għall-Istatus ta' Istituzzjonijiet Nazzjonali (il-Prinċipji ta' Pariġi), u aktar speċifikament b'relazzjoni għall-istruttura u l-funzjonijiet tal-Kummissjoni dwar id-Drittijiet ta' Persuni b'Diżabilità, in ġenerali, u f'dak li jirrigwarda l-investigazzjonijiet, il-konformità u l-infurzar, mekkaniżmi ta' rimedju li jiżguraw aċċess għall-ġustizzja, kif ukoll f'dak li jikkonċerna l-funzjoni ta' sorveljanza tas-suq tal-Kummissjoni fir-rigward tad-Direttiva (EU) 2019/882 dwar ir-rekwiżiti ta' aċċessibilità għall-prodotti u għas-servizzi (Att Ewropew dwar l-Aċċessibilità).

**A BILL
entitled**

AN ACT to amend the Equal Opportunities (Persons with Disability) Act, and to provide for other matters ancillary or consequential thereto, Cap. 413.

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.

Cap. 413.

Amendments to
Part I of the
principal Act.

1. The short title of this Act is the Equal Opportunities (Persons with Disability) (Amendment) Act, 2021 and this Act shall be read and construed as one with the Equal Opportunities (Persons with Disability) Act, hereinafter referred to as the "principal Act".

2. Article 2 of Part I of the principal Act shall be amended as follows:

(a) The definitions "accommodation", "alteration" and "assistive means" shall be deleted;

(b) The definition "child" shall be deleted;

(c) The definitions "communication", "compulsory school age", and "contract of service" shall be deleted.

(d) The definition "Convention" shall be substituted by the following:

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2021.

" "Convention" shall mean the United Nations Convention on the Rights of Persons with Disabilities Act;"

(e) The definitions "disability", "educational authority", "educational institution", "employment", "employment agency", "foster carer", "harassment", "impairment", "language" and "mental disorder" shall be deleted;

(f) The definition "minor" shall be deleted;

(g) Immediately after the definition "Minister" there shall be added the following new definitions:

" "Optional Protocol" shall have the same meaning as assigned to it in article 2 of the United Nations Convention on the Rights of Persons with Disabilities Act;

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"Panel" shall mean the Panel established in terms of article 33B;

"person with disability" shall have the same meaning assigned to it in article 2 of the United Nations Convention on the Rights of Persons with Disabilities Act;"

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(h) The definitions "pensionable age", "property", "qualified person with a disability", "reasonable accomodation" and "rights of persons with disability" shall be deleted.

(i) Immediately after the definition "person with disability", as added, there shall be added the following new definition:"

" "substantive Convention rights" shall have the same meaning as assigned to it in article 2 of the United Nations Convention on the Rights of Persons with Disabilities Act."

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(j) Immediately after the definition "voluntary organizations" there shall be added the following new definition:

" "UNCRPD Committee" shall have the same meaning as assigned to it in article 2 of the United Nations Convention on the Rights of Persons with Disabilities Act."

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3. Part II of the principal Act shall be deleted. Deletion of Part II of the Principal Act.
4. Part III of the principal Act shall be deleted. Deletion of Part III of the Principal Act.
5. Part IV of the principal Act shall be deleted. Deletion of Part IV of the Principal Act.
6. Part V of the principal Act shall be amended as follows: Amendment of Part V of the principal Act.

(1) In sub-article (1) of article 22 of the principal Act, the words "determining the reasonableness of any action to be undertaken by any person in the fulfilment of the provisions of this Act," shall be substituted by the words "determining the reasonableness of any action to be undertaken by any person in the fulfilment of the provisions of this Act or of the United Nations Convention on the Rights of Persons with Disability Act,".

(2) Article 20A of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words "for a period of three years" shall be deleted;

(b) sub-article (2) thereof, shall be substituted by the following:

"The Board shall be convened whenever necessary, following a request by the Commissioner, and for the purposes of every such convocation, a panel of not less than three (3) and not more than seven (7) persons shall be appointed, including the Chairperson and Vice Chairperson of the Board.";

(c) sub-article (3) thereof, shall be substituted by the following:

"The majority of persons seated on a Board for every convocation of the said Board shall be persons with disability, with the other persons including at least one (1) person supporting a person with disability who cannot represent himself, and such persons shall be representatives from public entities, experts in the sector, including technical experts, or representatives from organisations of persons with disability, and their selection for a particular convocation shall best reflect the subject-matter on the agenda of a particular Board meeting.";

(d) sub-article (4) shall be substituted by the following:

"The Board shall be presided by the Chairperson, assisted by the Vice Chairperson, who shall both be persons with disability, appointed by the Commissioner for renewable periods of three (3) years, who shall retain their roles throughout said period for all convocations of the Board convened throughout said period.";

(e) in sub-article (11) thereof, the words "in the case where the person wishing to make a request needs help to formulate such request in an oral form and, or in writing, it shall be the duty of the Commissioner to take reasonable steps to provide appropriate help" shall be substituted by the words "in the case where the person intending to make a request needs support to formulate such request in an oral form and, or in writing, it shall be the duty of the Commissioner to take reasonable steps to provide appropriate support".

7. Part VI of the principal Acts shall be amended as follows:

Amendments to
Part VI of the
principal Act.

(1) Paragraph (1) of article 22 of the principal Act shall be amended as follows:

(a) sub-paragraphs (a) and (b) thereof, shall be deleted;

(b) sub-paragraph (e) thereof, shall be deleted;

(c) sub-paragraphs (n) and (o) thereof, shall be deleted;

(d) immediately following sub-paragraph (t) thereof, there shall be added the following new sub-paragraphs:

"(u) monitor facilities offering services to persons with disability and licensed in terms of the Social Care Standards Authority Act, and to undertake relevant investigations and compliance and enforcement actions in respect of such;

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"(v) fulfil the role of market surveillance authority in terms of Directive (EU) 2019/882 on the accessibility requirements for products and services, through its Investigations Unit and Enforcement Unit.".

(2) In sub-article (7) of article 24 of the principal Act, the words "by the Minister after consultation with the Commissioner" shall be substituted by the words "by the Commissioner".

(3) Article 26 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words "on those

terms and conditions as indicated by the Minister" shall be deleted;

(b) in sub-article (2) thereof, the words "after consultation with the Minister" shall be deleted.

Amendments to
Part VII of the
principal Act.

8. Part VII of the principal Act shall be amended as follows:

(1) Immediately preceding article 32 of the principal Act the title of Part VII thereof, shall be substituted by the following title "ACCESS TO JUSTICE"; and immediately after the title, as substituted, there shall be added the following new sub-title:

"TITLE 1 – COMPLAINTS, INVESTIGATIONS AND ENFORCEMENT".

(2) Article 32 of the principal Act shall be amended as follows:

(a) sub-articles (1), (2) and (3) thereof, shall be renumbered as sub-articles (2), (3) and (4) respectively;

(b) immediately preceding sub-article (2) thereof, as substituted, there shall be added the following new sub-article:

"(1) The Commission shall have the power to carry out inspections and investigations on any occasion and for any purpose related to the responsibilities and functions pertaining to the Commission under the Act and subsidiary legislation made thereunder, as well as any other applicable law, including but not limited to the Accessibility Standards for All in the Built Environment Regulations. Saving as otherwise provided for in this Act, the Commission shall have exclusive jurisdiction in relation to matters involving any substantive Convention rights, or otherwise brought under any provisions of this Act, unless the discrimination alleged in such matters is of a multiple or intersectional nature, and shall also have the power to enforce sanctions in conformity with the Act.";

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(c) in sub-article (2) thereof, the words "under any of the provisions of this Act" shall be substituted by the words "in terms of any substantive Convention rights, or otherwise under any provisions of this Act";

(d) in sub-article (3) thereof, the words "under any of the provisions of this Act" shall be substituted by the words "in terms of any substantive Convention rights, or otherwise under any provisions of this Act", and subparagraph (b) thereof, shall be substituted by the following:

"any person referred to in article 33A of this Act";

(e) in sub-article (4) thereof, the words "a person wishes to make a complaint under sub-article (2)" shall be substituted by the words "a person intends to file a complaint in terms of sub-article (3)";

(f) immediately after sub-article (4) thereof, the following new sub-articles shall be added:

"(5) In the exercise of the powers mentioned in the previous sub-articles, the Commissioner shall be assisted by the following mechanisms which may:

(a) an Investigations Unit within the Commission to carry out investigations of complaints; and

(b) an Enforcement Unit within the Commission to take the following measures in respect of any person who infringes any provision of the Act, or any other law which the Enforcement Unit is entitled to enforce, or who fails to comply with any decision given by the Investigations Unit or the Test of Reasonableness Board who may:

(i) impose an administrative fine in accordance with the provisions of this Act, and;

(ii) order the cessation of any act or omission which are in breach of any provision of the Act and any other law which the Enforcement Unit is entitled to enforce;

(c) the Investigations Unit and Enforcement Unit shall also serve towards the Commission's fulfilment of its role as market surveillance authority in respect of Directive

(EU) 2019/882 on the accessibility requirements for products and services, acting in conjunction with other relevant stakeholders locally and at European Union level, and in line with other relevant primary and secondary legislation.

(6) In exercising the duties in terms of this article, the Commission shall be granted the right of entry into any premises, public or private for the purposes of:

(a) carrying out investigations, inspections, or surveys;

(b) ascertaining that nothing contrary to the provisions of the Act, to the regulations made thereunder, or to any term imposed by any of the Investigations Unit, or the Test of Reasonableness Board, is taking, or has taken place, and proceeding with any action accordingly;

(c) ascertaining or reproducing such data or information as the Commission may require;

(d) making plans of any premises and taking photographs of the said premises after entry in accordance with this sub-article;

(e) doing anything that is ancillary or consequential thereto.

(7) In the case of a dwelling house or a condominium, such right of entry, inspection and monitoring as provided for in this Act, shall be subject to giving prior notice of at least forty-eight (48) hours, and shall not apply before half past seven in the morning and after seven o'clock in the evening, and where such entry, inspection or monitoring is refused, it shall be lawful for any Magistrate, on good cause being shown to him by the Commissioner, or by one of his authorised officers on oath, to grant a warrant authorizing such entry, inspection or monitoring.

(8) Any person who shall, on production of the warrant issued pursuant to sub-article (7), refuse to permit said entry, or else obstruct said inspection or monitoring, shall be guilty of an offence and shall, on conviction, be liable to a fine (*ammenda*) not exceeding one hundred and sixteen euro and forty-seven cents (€116.47), and any person who obstructs, threatens, attacks or impedes any officer of the Commission in the exercise of his duties under the Act, shall be guilty of an offence and shall, on conviction be liable, to imprisonment not exceeding three years, or to a fine (*multa*) of not more than one hundred thousand euro (€100,000), or to both such fine and imprisonment.

(9) Any person authorised pursuant to this article shall produce a means of identification issued by the Commission."

(3) Immediately after article 32 of the principal Act, the following new articles shall be added:

"32A.(1) The Enforcement Unit shall act after Reasonableness. being duly authorised to do so by the Investigations Unit following its investigations carried out as provided for in this Act.

(2) Notwithstanding the provisions of sub-article (1), where the Enforcement Unit has *prima facie* evidence that the infringement represents an immediate hardship for the aggrieved party, the said Enforcement Unit may be directed by the Investigations Unit to take urgent interim measures to remedy the situation in advance of the termination of the investigations process, including the immediate cessation of the act or omission contributing to the infringement.

Provided that the person against whom such measures are contemplated, shall, thereafter, be given a reasonable opportunity to state his opinion and propose any remedies.

32B. In conducting its investigations, the Investigations Unit shall be guided by the principle of reasonableness as established in article 20, and may consult with the Board to determine what is reasonable as the case may be, with investigations being suspended

pending the outcome of any such reference by the Investigations Unit to the Board.

Administrative fine.

32C. (1) An administrative fine imposed shall not, unless provided otherwise under this Act, exceed two thousand, three hundred and twenty-nine euro and thirty-seven cents (€2329.37) for every infringement, or failure to comply and, or two hundred and thirty-two euro and ninety-four cents (€232.94) for every day that the infringement or non-compliance subsists, as the case may be:

Provided that any daily fine imposed may be backdated to the date of the commission or commencement of the infringement.

(2) In determining the amount of an administrative fine, regard shall be made in particular to the nature and extent of the infringement, its duration and the impact on the rights infringed.

Appeals from decisions.

32D. (1) The Administrative Review Tribunal shall be competent to hear and determine appeals from decisions of the Investigations Unit as provided for in this Act or in any law.

Cap. 490.

(2) The provisions of the Administrative Justice Act, in so far as they apply to the Administrative Review Tribunal, shall apply to any proceedings before said Tribunal, and the words "public administration" in the said law shall be construed as a reference to the Investigations Unit.

32E. (1) The right to appeal to the Tribunal shall be competent to any person to whom the decision is addressed.

(2) An appeal from a decision of the Investigations Unit shall be made by application and shall be filed with the Secretary of the Tribunal within twenty (20) days from the date on which said decision has been notified.

32F. In determining an appeal, the Tribunal shall take into account the merits of the appeal, and may confirm or annul the decision appealed from, in whole or in part, and shall give in writing the reasons for its decision, and cause such decision to be made public and communicated to the parties to the appeal."

(4) Immediately preceding article 33A of the principal Act, there shall be added the following new sub-title:

"TITLE 2 – LEGAL REDRESS".

(5) Immediately after article 33A, there shall be added the following new articles:

"33B.(1) There shall be a Panel within the Commission, to be referred to as the UNCRPD Redress Panel, competent to hear petitions alleging that one or more substantive Convention rights have been contravened, and it shall be composed of three (3) persons, including a Chairperson, being persons with disability or persons with lived experience of disability, appointed by the Commissioner, who may from time to time, appoint more than one Panel.

UNCRPD
Redress Panel.

(2) Saving as otherwise provided for in this Act, the Panel shall have exclusive jurisdiction in relation to matters involving any substantive Convention rights, unless the discrimination alleged in such matters is of a multiple or intersectional nature.

(3) The persons composing the Panel shall be appointed for a term of two (2) years, and during their term of office, may only be removed from office by the Commissioner on the same grounds as for the removal of a Magistrate.

(4) The Panel shall be tasked with determining any petition, submitted to it by any person with disability on their own behalf, or by any person on behalf of any other person with disability for whom, or with whom, they are authorised to exercise legal capacity.

(5) The Panel shall respect and apply the principles of good administrative behaviour laid down in article 3 of the Administrative Justice Act, and in delivering its decisions, the Panel shall do so on the basis of equity, and be guided by the provisions of the United Nations Convention on the Rights of Persons with Disabilities Act, including the Schedules annexed thereto.

Cap. 490.

Bill No. XXX of
2021.

(6) There shall be such number of chambers of the Panel as the Commissioner may prescribe. The petitions shall be assigned to the various Panels on a rotation basis, by such officers as are designated by the Registry of the

Procedures
before the
UNCRPD
Redress Panel.

Panel.

33C. (1) Petitions shall be submitted to the Panel, within two (2) years of every instance of alleged discrimination on the basis of disability, in respect of any of the substantive Convention rights, in any of the formats prescribed by means of regulations made by the Minister under this Act, and shall indicate therein any person or entity against whom or which it is being alleged that they contravened any one or more substantive Convention rights.

(2) The right to submit a petition to the Panel shall be without prejudice to any other action with respect to the same matter contained in the petition, that is lawfully applicable.

(3) Any remedy claimed when filing a petition in terms of sub-article (1), shall not be a remedy of a pecuniary nature.

(4) The Panel shall process immediately the petitions received, and send an acknowledgement within three (3) working days from when such petition is registered, and this shall immediately be forwarded to the defendants indicated in said petition, for their submissions.

Defendants
shall forward
their
submissions
within fifteen
(15) days.

(5) After receiving all the required information, including the submissions of the defendants indicated in the petition and all other necessary documentation, the Panel shall immediately decide on the petition, by not later than fifteen (15) days from when the Panel receives the said submissions from the defendants indicated in the petition.

(6) In deciding a petition, the Panel may make such orders, issue such acts and give such directions as it may consider appropriate, for the purpose of enforcing, or securing the enforcement, of the rights of the person with disability, the enjoyment of which the person concerned is entitled to, in respect of any person or entity indicated in the petition submitted to the said Panel, and against whom it is being alleged that they contravened any one or more substantive Convention rights, and in respect of said enforcement, the Enforcement Unit within the Commission shall also exercise the powers conferred on it in terms of article 32(5)(b) of the Act.

Provided that the Panel shall not be competent to issue sanctions of a pecuniary nature as a remedy in respect of any claim brought before the said Panel.

(7) If the defendants indicated in the petition do not forward the submissions or the documentation requested within fifteen (15) days from when requested to do so, the Panel shall immediately decide the petition.

(8) As soon as the Panel decides, the Registry of the Panel shall communicate the decision to the petitioner within five (5) working days.

33D. (1) Any petitioner or defendant in a petition brought before the Panel, may appeal from a decision of the said Panel, in respect of points of fact or law decided by the Panel, within twenty (20) days from the date that the such decision is communicated to the petitioner and the defendant.

Appeals to the
Administrative
Review
Tribunal.

(2) An appeal under this article shall be made to the Administrative Review Tribunal in accordance with the procedure laid down under the Administrative Justice Act and regulations prescribed thereunder.

Cap. 490.

33E. (1) No person shall be hindered in the exercise of his right to communicate with the UNCRPD Committee in accordance with the provisions of the Optional Protocol.

Communication
with the
UNCRPD
Committee.

(2) The provisions of this Act shall be without prejudice to any other action that may be available under the Act, or under any other law."

Rights under
Act without
prejudice to
other rights.

(6) Article 34 of the principal Act shall be substituted by

the following:

"Civil proceedings in respect of a claim due to disability discrimination.

34. A claim by any person with disability having a legal interest in the matter, instituted by any person with disability on his own behalf, or by any person on behalf of any other person with disability for whom, or with whom, he is authorised to exercise legal capacity, that another person has allegedly committed an unlawful act of discrimination against him as provided for in terms of this Act shall be instituted by means of a civil action, should said claim also include a claim for damages; and any damages in respect of an unlawful act of discrimination may include compensation for moral damages, whether or not compensation is claimed under any other head, of not more than five thousand (€5,000) euro, as the court may declare.

(7) Article 34A of the principal Act shall be substituted by the following:

The burden of proof lies with the defendant.

34A. Where, in any legal proceedings, instituted in terms of this Act for redress following an unlawful act of discrimination, the person instituting the proceedings establishes before the Court facts from which it may be presumed that there has been discrimination, the burden of proof that there has been no breach of the provisions of this Act lies with the defendant.

Amendments to Part VIII of the principal Act.

9. Part VIII of the principal Act shall be amended as follows:

(1) Article 35 of the principal Act shall be substituted by the following:

"The Minister may make regulations generally for giving effect to the provisions of this Act, and the enforcement thereof, and in particular, but without prejudice to the generality of the foregoing, for providing for any matter which is required or authorised by this Act to be prescribed."

(2) Article 36 of the principal Act shall be deleted.

(3) Article 37 of the principal Act shall be deleted.

(4) Immediately after article 37 of the principal Act, there shall be added the following new article:

Transitional provisions.

Act XXX of 2021.

Bill No. XXX of 2021.

"38. Any competent Court that has before it pending proceedings instituted under the Act, may also apply the provisions of the Equal Opportunities (Persons with Disability)(Amendment) Act and, or the United Nations Convention on the Rights of Persons with Disabilities Act in reaching its decision on any pending proceedings."

10. The Procedure for the Investigation of Complaints Regulations are hereby being repealed.

Repeal of Procedure for the Investigation of Complaints Regulations. S.L. 413.01.

Objects and Reasons

The objects and reasons of this Bill are to amend the Equal Opportunities (Persons with Disability) Act, Cap 413 and to provide for matters ancillary or consequential thereto, in particular to ensure fulfilment of Malta's obligations in terms of the United Nations Convention on the Rights of Persons with Disabilities and the United Nations Principles relating to the Status of National Institutions (the Paris Principles), and more specifically in relation to the structure and functions of the Commission for the Rights of Persons with Disability, in general and in respect of investigations, compliance and enforcement, redress mechanisms ensuring access to justice, as well as concerning the Commission's market surveillance function in relation to Directive (EU) 2019/882 on the accessibility requirements for products and services (European Accessibility Act).