



Strasbourg, 23 July 2026

**CDL-REF(2026)036**

Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**OF THE COUNCIL OF EUROPE**  
**(VENICE COMMISSION)**

**MALTA**

**PROPOSED AMENDMENTS TO  
THE ADMINISTRATIVE JUSTICE BILL\***

**Submitted to the Venice Commission by the  
Maltese authorities on 21 July 2026**

*\* The amendments set out in this document reflect the latest proposal submitted by the authorities. The Administrative Justice (Amendment) Bill is currently under consideration by the Maltese Parliament. The first reading took place on 13 July 2026.*

### Proposed amendments to the Administrative Justice Bill

#### 1. Composition of the Commission for Appointments and technical persons

| Provision in the original version of the Bill                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Text to be deleted / amended                                                          | Proposed wording in the revised version of the Bill                                                                                                                                                                                                                                                                              | Rationale                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>23A(1)(b):</b><br><i>(1) There shall be a commission to be known as the Commission for Appointments and Discipline in Administrative Tribunals, hereinafter in this Part and in Part IVter referred to as the "Commission", which shall be composed as follows: (a) a Chairperson being a retired Judge or Magistrate; and (b) two (2) members being Permanent Secretaries in office: Provided that, without prejudice to any other provision of this Act, a person shall not be eligible to be a member of the Commission in relation to any process for the appointment of a Chairperson or member of an administrative tribunal if that person is the Permanent Secretary in the Ministry responsible for the administrative tribunal concerned.</i> | Delete the words:<br><br>“(b) two (2) members being Permanent Secretaries in office.” | Replace them with:<br><br>“(b) four (4) other members who shall be persons of known integrity and recognised competence, possessing substantial experience in public administration, governance, regulation, administrative justice or other fields related to the functions of administrative tribunals.”                       | Addresses the criticism that the Commission is dominated by serving executive officials while retaining the possibility of appointing persons with extensive public-sector experience. |
| <b>23A(1) proviso:</b><br><i>Provided that, without prejudice to any other provision of this Act, a person shall not be eligible to be a member of the Commission in relation to any process for the appointment of a Chairperson or member of an administrative tribunal if that person is the Permanent Secretary in the Ministry responsible for the administrative tribunal concerned.</i>                                                                                                                                                                                                                                                                                                                                                             | Delete the proviso in its entirety.                                                   | Replace it with:<br><br>“Provided that no member of the Commission shall participate in any process concerning the appointment, evaluation, discipline or removal from office where that member has a direct or indirect interest, or where circumstances exist which may reasonably give rise to doubt as to his impartiality.” | A conflict-of-interest rule linked to the preceding provision.                                                                                                                         |

|                                 |                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                          |
|---------------------------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| 23A – new sub-article after (5) | There is no existing provision concerning a technical person appointed to assist the Commission. | <p>Add:</p> <p><i>“(6) The Commission may, where it considers it necessary, appoint one (1) or more persons possessing relevant technical or sectoral knowledge or experience to assist it in the process of evaluating candidates for a particular administrative tribunal. Such person shall act solely in an advisory capacity and shall have no right to vote.</i></p> <p><i>(7) A person appointed under sub-article (6) shall receive such remuneration as may be established by notice in the Gazette, and such remuneration shall be paid out of the Consolidated Fund.”</i></p> | This retains the Commission model while allowing technical expertise where required without creating an additional vote. |
|---------------------------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|

## 2. Appointment procedure and role of the President

| Provision in the original version of the Bill                                                                                                                                                                                                                                                               | Text to be deleted / amended  | Proposed wording in the revised version of the Bill                                                                                                                                                                                                                            | Rationale                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| <b>23C(2):</b><br><i>“The Commission shall give such advice after issuing a call for applications and after considering as it deems appropriate and being satisfied as to the suitability and competence of the person nominated for appointment to act independently and impartially as Chairperson or</i> | Replace the existing wording. | <p>Replace it with:</p> <p><i>“The Commission shall give such advice following a public call for applications and a competitive, merit-based process, which may include interviews and an assessment of the candidates’ professional experience, technical or sectoral</i></p> | Expressly introduces merit-based selection. |

|                                               |                                                                                           |                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                      |
|-----------------------------------------------|-------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>member of an administrative tribunal."</i> |                                                                                           | <i>competence, integrity, independence and impartiality."</i>                                                                                                                                                                                                                                                                                                       |                                                                                                                                                      |
| 23C – new sub-articles after (3)              | There is no clear provision as to whether the Commission is to submit one name or a list. | <p>Add:</p> <p><i>"(4) Upon completing its evaluation, the Commission shall submit to the President of Malta the name of the person whom it considers suitable for appointment.</i></p> <p><i>(5) Upon transmitting the name referred to in subarticle</i></p> <p><i>(4), the Commission shall publish the name of the person recommended for appointment."</i></p> | Addresses the observation as to whether the Commission recommends one candidate or a shortlist. It also addresses publication of the name concerned. |

### 3. Regulations concerning the procedure of the Commission

| Provision in the original version of the Bill                                                                                                                                                                                                                                                                                                                                                                                                                                | Text to be deleted / amended | Proposed wording in the revised version of the Bill | Rationale                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>23E:</b><br><i>"The Prime Minister may by regulations amend the Third Schedule and may also by regulations amend any law mentioned in the Third Schedule limitedly so that the manner, term of appointment, of discipline and removal from office of persons sitting on any administrative tribunal in accordance with that law shall conform to the manner, term of appointment, of discipline and removal from office provided for in this Part and in Part IVter."</i> | N/A                          | N/A                                                 | Already provided for in the Bill. Detailed and practical matters are left to subsidiary legislation while the principal safeguards remain in the Act. |

**4. Number of terms of reappointment**

| Provision in the original version of the Bill                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Text to be deleted / amended | Proposed wording in the revised version of the Bill | Rationale                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------------------------------------|-----------------------------------|
| <b>23D(4):</b><br><i>"Unless the law establishing the administrative tribunal to which appointments are made in accordance with article 23C provides for a longer period of appointment or for the exclusion of reappointment, either immediately after the expiry of an appointment or after the expiry of a reappointment, appointments made in accordance with the said article shall be for a period of five (5) years: Provided that the appointed person may be reappointed for one (1) further term only, provided that he reappplies following a new call for applications issued in accordance with article 23C, and his application is examined by the Commission on the same basis and in accordance with the same criteria applicable to the other applicants."</i> | N/A                          | N/A                                                 | Already provided for in the Bill. |

**5. Administrative Office and operational autonomy**

| Provision in the original version of the Bill                                                                                                                                                                                                       | Text to be deleted / amended  | Proposed wording in the revised version of the Bill                                                                                                                                                                                         | Rationale                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| <b>23H:</b><br><i>"There shall be an office within the Ministry responsible for justice which shall provide administrative support to the Commission and advise the Government on matters connected with the work of administrative tribunals."</i> | Replace the existing wording. | Replace it with:<br><br><i>"23H. (1) There shall be an administrative office which shall provide administrative support to the Commission and shall have such staff and resources as may be necessary for the Commission to perform its</i> | Strengthens the principle that support from the Ministry does not mean control by the Ministry. |

|  |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |
|--|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|  |  | <p><i>functions effectively and independently.</i></p> <p><i>(2) In the exercise of their functions in connection with the work of the Commission, the secretary and the staff assigned to the Commission shall be subject only to the direction of the Commission.</i></p> <p><i>(3) The expenses of the Commission, including the remuneration of its members and its administrative expenses, shall be paid out of the Consolidated Fund."</i></p> |  |
|--|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

#### 6. Discipline: separation between bringing/investigating a matter and the decision

| Provision in the original version of the Bill | Text to be deleted / amended                                                                   | Proposed wording in the revised version of the Bill                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Rationale                                                                                                                         |
|-----------------------------------------------|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <b>23H</b>                                    | There is no provision separating the investigation/prosecution from the disciplinary decision. | <p>The wording of article 23H remains as follows:</p> <p><i>"23H. (1) There shall be an administrative office which shall provide administrative support to the Commission and shall have such staff and resources as may be necessary for the Commission to perform its functions effectively and independently.</i></p> <p><i>(2) In the exercise of their functions in connection with the work of the Commission, the secretary and the staff assigned to the Commission shall be subject only to the direction of the Commission.</i></p> <p><i>(3) The expenses of the Commission, including the remuneration of its</i></p> | The Commission remains composed as established above. There will be no separate person bringing the matter before the Commission. |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                        | <i>members and its administrative expenses, shall be paid out of the Consolidated Fund."</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                            |
| <b>23I(1):</b><br><i>"(1) Notwithstanding the provisions of any other law, any person appointed as Chairperson or member of an administrative tribunal may be removed from office by the President of Malta, acting on the advice of the Commission, but such Chairperson or member may be removed only on the ground of inability to perform the duties of his office, whether arising from physical or mental infirmity or any other cause, or for misbehaviour."</i> | Replace the existing wording:<br><br><i>"... may be removed from office by the President of Malta, acting on the advice of the Commission, but such Chairperson or member may be removed only ..."</i> | Article 23I(1) shall read as follows:<br><br><i>"23I. (1) Notwithstanding the provisions of any other law, any person appointed as Chairperson or member of an administrative tribunal may be removed from office by the President of Malta, acting on the advice of the Commission, following proceedings which observe the principles of natural justice; provided that such Chairperson or member may be removed only on the ground of inability to perform the duties of office, whether arising from physical or mental infirmity or any other cause, or on the ground of misbehaviour."</i> | Links removal to the new process and to the guarantees of natural justice. |

## 7. Code of Ethics:

| Provision in the original version of the Bill                                                                                                                                                                                                                                                    | Text to be deleted / amended                 | Proposed wording in the revised version of the Bill                                                                                                                                                                                                                                                                                                                                           | Rationale                                                                                                                                                                                                                                                                                                                                                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>23G(2):</b><br><i>"(2) The Minister may by regulations establish a Code of Ethics regulating the ethics and discipline of Chairpersons and members of administrative tribunals. Such Code of Ethics shall be included in the Fourth Schedule and shall be enforceable by the Commission."</i> | Delete the existing wording in its entirety. | Replace it with:<br><i>"(2) In the performance of their functions and duties, the Chairpersons and members of the administrative tribunals listed in the Third Schedule shall uphold and promote the principles and standards established in the Fourth Schedule. Provided that within one (1) year from the date of its establishment, the Commission shall, with the concurrence of the</i> | The existing Code has been replaced by a set of Minimum Ethical Standards for Chairpersons and Members of Administrative Tribunals. Furthermore, the Commission has been given responsibility for drawing up the Code or Codes of Ethics for the tribunals listed in the Third Schedule, always with the concurrence of the Minister responsible for justice. |

|  |  |                                                                                                                                                        |                                                                                                                             |
|--|--|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
|  |  | <i>Minister responsible for justice, draw up one or more Codes of Ethics applicable to the administrative tribunals listed in the Third Schedule.”</i> | The Fourth Schedule has been entitled: “Minimum Ethical Standards for Chairpersons and Members of Administrative Tribunals” |
|--|--|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|