

MEMORANDUM FOR CABINET BY THE MINISTER OF INDUSTRIAL
DEVELOPMENT AND TOURISM

European Convention on the Liability of Hotel-Keepers

In January 1960 the Secretary of State for the Colonies forwarded a copy of a draft European Convention on the Liability of Hotel-Keepers concerning the property of their guests, for consideration by the Malta Government, who were asked to say whether it was desired that the Convention be extended to Malta, assuming that the draft could be so amended as to provide for such extension.

2. The Secretary of State was informed that following consultations with bodies interested in the hotel business and tourism, the Executive Council had recommended acceptance in principle of the necessity to amend existing legislation in order to bring it into line with the draft Convention and had advised that a request be made for the extension of the Convention to Malta. The Secretary of State was informed that action was being taken to bring local legislation into line with the Convention and was asked whether, in the meantime, it had been possible to amend the draft to provide for it to be extended to Malta.

3. In April 1963, the Secretary of State sent a savinggram forwarding a copy of the final text of the Convention and notifying certain changes made to the draft, amongst which one that makes possible its extension to Malta. The Malta Government was asked to confirm that such extension was in fact desired.

4. The Attorney General has advised that the provisions of the Civil Code (Cap. 23) relating to "Deposit", as they apply to inkeepers, in particular sections 1082, 2023 and 2024, would have to be amended to be brought into line with the Convention, if this were extended to Malta. Under present law a hotel-keeper is liable for damages in respect of theft of property from hotels, whether deposited with the hotel-keeper or not, up to a maximum of £10. Under the Convention the liability of hotel-keepers would be:-

- a) limited to £75 where the property has not been deposited with the hotel-keeper;
- b) unlimited, where the property has been deposited with the hotel-keeper or where he has refused to receive property which he is bound to receive for custody;

and any such property becomes damaged, destroyed or lost.

5. In view of the importance which is being attached to the development of the tourist industry in the Maltese Islands, it is always desirable to accede to such existing international instruments as are likely to bring tourist legislation in Malta into line with that obtaining all over the world and especially in Europe.

6. /.....

6. Hon. Ministers are accordingly invited to agree that the Convention should be extended to Malta and that the Attorney General should prepare the necessary legislation in order to bring our laws into line with the provisions of the Convention.

7. A copy of the Convention is attached herewith, for information.

24th March, 1964.

C O N V E N T I O N
O N T H E L I A B I L I T Y O F H O T E L - K E E P E R S
C O N C E R N I N G T H E P R O P E R T Y O F T H E I R G U E S T S

L-ARKIVJI NAZZJONALI TA' MALTA

The signatory Governments of the member States of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve closer unity between its Members, inter alia by the adoption of common rules in legal matters;

Believing it expedient to harmonise certain rules relating to the liability of hotel-keepers concerning the property of their guests,

Have agreed as follows:

ARTICLE 1

1. Each Contracting Party undertakes that, within twelve months of the date of entry into force of the present Convention in respect of that Party, its national law shall conform with the rules on the liability of hotel-keepers concerning the property of their guests set out in the annex to this Convention.

2. Each Contracting Party shall nevertheless remain free to impose greater liabilities on hotel-keepers.

3. Each Contracting Party shall transmit to the Secretary General of the Council of Europe the official text of any legislation concerning the matters governed by the Convention. The Secretary-General shall transmit copies of the texts to other Parties.

ARTICLE 2

Each Contracting Party retains the option:

(a) notwithstanding the provisions of paragraph 3 of Article 1 of the Annex, to limit the liability of the hotel-keeper to at least 100 times the daily charge for the room;

(b) notwithstanding the provisions of paragraph 3 of Article 1 of the Annex, to limit the liability in respect of any one article to an amount which is not less than the equivalent of 1,500 gold francs or, where the preceding paragraph of this article applies, to a minimum of 50 times the daily charge for the room;

(c) to adopt the rule laid down in paragraph 2 of Article 1 of the Annex only in respect of property which is at the hotel;

(d) notwithstanding the provisions of Article 6 of the Annex, to permit hotel keepers to reduce their liability, in cases to which paragraph 1 (a) of Article 2 or Article 4 of the Annex apply, not being cases where intent or fault tantamount to intent is involved, by an agreement with the guest signed by him and containing no other terms; the liability of the hotel-keeper may not, however, be reduced to an amount which is less than that provided in the relevant legislation enacted in pursuance of this Convention;

(e) notwithstanding the provisions of Article 7 of the Annex, to apply the rules in the Annex to vehicles, property left with them and live animals, or to regulate the hotel-keeper's liability in this respect in any other way.

ARTICLE 3

1. This Convention shall apply to the metropolitan territories of the Contracting Parties.

2. Any Contracting Party may, when signing this Convention or when depositing its instrument of ratification, acceptance or accession, or at any later date, declare by notification addressed to the Secretary-General of the Council of Europe, that this Convention shall apply to the territory or territories, mentioned in the said declaration, for whose international relations it is responsible or for which it is empowered to legislate.

3. Any declaration made in accordance with the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 6 of this Convention.

ARTICLE 4

1. This Convention is open to signature by the Members of the Council of Europe. It shall be ratified or accepted. The instruments of ratification or acceptance shall be deposited with the Secretary-General of the Council of Europe.

2. The Convention shall come into force three months after the date of the deposit of the third instrument of ratification or acceptance.

3. In respect of a signatory Government ratifying or accepting subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification or acceptance.

ARTICLE 5

1. The Committee of Ministers of the Council of Europe may invite any State not a Member of the Council to accede to this Convention.

2. Accession shall be by deposit with the Secretary-General of the Council of an instrument of accession which shall take effect three months after the date of its deposit.

ARTICLE 6

1. A Contracting Party may not denounce this Convention within less than five years from the date on which the Convention entered into force in respect of that Party. Such denunciation shall be effected by notification addressed to the Secretary-General of the Council of Europe.

2. The denunciation shall take effect for the Contracting Party concerned six months after the date on which it is received by the Secretary-General of the Council of Europe.

ARTICLE 7

The Secretary-General of the Council of Europe shall notify Members of the Council and the Government of any State which has acceded to this Convention of:

(a) any signature and any deposit of an instrument of ratification, acceptance or accession;

(b) the date on which the Convention enters into force in respect of any State;

(c) notifications which may be received in pursuance of Articles 3 and 6.

A N N E X

ARTICLE 1

1. A hotel-keeper shall be liable for any damage to or destruction or loss of property brought to the hotel by any guest who stays at the hotel and has sleeping accommodation put at his disposal.

2. Any property

(a) which is at the hotel during the time when the guest has the accommodation at his disposal;

(b) of which the hotel-keeper or a person for whom he is responsible takes charge outside the hotel during the period for which the guest has the accommodation at his disposal; or

(c) of which the hotel-keeper or a person for whom he is responsible takes charge whether at the hotel or outside it during a reasonable period preceding or following the time when the guest has the accommodation at his disposal;

shall be deemed to be property brought to the hotel.

3. The liability shall be limited to the equivalent of 3,000 gold francs.

4. The gold franc mentioned in the preceding paragraph refers to a unit consisting of sixty-five and a half milligrammes of gold of millesimal fineness nine hundred.

ARTICLE 2

1. The liability of a hotel-keeper shall be unlimited:

(a) where the property has been deposited with him;

(b) where he has refused to receive property which he is bound to receive for safe custody.

2. A hotel-keeper shall be bound to receive securities, money and valuable articles; he may only refuse to receive such property if it is dangerous or if, having regard to the size or standing of the hotel, it is of excessive value or cumbersome.

3. A hotel-keeper shall have the right to require that the article shall be in a fastened or sealed container.

ARTICLE 3

A hotel-keeper shall not be liable in so far as the damage, destruction or loss is due;

(a) to the guest or any person accompanying him or in his employment or any person visiting him;

(b) to an unforeseeable and irresistible act of nature or an act of war;

(c) to the nature of the article

ARTICLE 4

The hotel-keeper shall be liable and shall not have the benefit of the limitation on his liability laid down in paragraph 3 of Article 1 of this Annex where the damage, destruction or loss is caused by a wilful act or omission or negligence, on his part or on the part of any person for whose actions he is responsible.

ARTICLE 5

Except in any case to which Article 4 of this Annex applies, the guest shall cease to be entitled to the benefit of these provisions if after discovering the damage, destruction or loss he does not inform the hotel-keeper without undue delay.

ARTICLE 6

Any notice or agreement purporting to exclude or diminish the hotel-keeper's liability given or made before the damage, destruction or loss has occurred shall be null and void.

ARTICLE 7

The provisions of this Annex shall not apply to vehicles, any property left with a vehicle, or live animals.