

Memorandum by the Minister of Justice

The Judicial Proceedings (Use of English Language) Bill is attached.

2. In general it may be said that it does not depart very substantially from the existing pattern, but its importance lies in that -

- (a) it makes independent provision for the matter de qua, i.e. outside the context of the particular Codes, which in the circumstances is more logical;
- (b) it corrects certain legal incongruities in the existing law, e.g. the provisions relating to the interpretation of proceedings and evidence to the parties who do not understand the relevant language are converted (with more modifications) into general provisions in the Civil and Criminal Codes and are no longer misplaced in a provision relating to the English Language;
- (c) it takes account of the changed constitutional status of Malta and
- (d) while so taking account of the new status of Mal'ta, it also has regard to practical expediency.

3. What is stated in (c) and (d) above may be illustrated as follows:-

- (a) The existing provisions define "Maltese-speaking" and "English-speaking"

/persons .....

persons as follows:

"Maltese-speaking person" means a person who speaks Maltese as the principal language to which he is accustomed;

"English-speaking person" means a person who does not speak Maltese as the principal language to which he is accustomed and who has a sufficient knowledge of the English language fully to understand and follow all the proceedings if conducted in that language.

Obviously this is a defective definition and reflects ideas now happily discarded. Under the above definition of "English-speaking person" most of the Sliema people would be English-speaking. Not only legally but also logically the definition should be as now proposed, viz:

"Maltese-speaking person" is a person who has a sufficient knowledge of the Maltese language fully to understand and follow the proceedings conducted in that language;

"English-speaking person" is a person who has not a sufficient knowledge of the Maltese language fully to understand and follow the proceedings if conducted in that language, but who has a sufficient knowledge of the British language fully to understand

/and .....

and follow the proceedings if conducted in that language.

- (b) While the Bill retains the provision which says that the proceedings will be conducted in the English language where any one of the parties is an English-speaking person and none of the parties is a Maltese-speaking person (which indeed reflects a practical approach), it has discarded the existing provision which says that the proceedings will be conducted in the English language also where no one of the parties is either a Maltese-speaking person or an English-speaking person, e.g. when all the parties are German or Italian, which is derogatory and hardly in accord with the spirit of the Constitution.
- (c) On the other hand (and this again reflects the practical approach) the Bill has substantially retained the provision which says that where any one of the parties is a Maltese-speaking person and any one of the parties is an English-speaking person, the Court may order that the proceedings be conducted in the English-language. The reason for this retention is practical expediency in that where the Maltese-speaking party is fully conversant with the English language, there may be advantage both

/with .....

with regard to speed and procedural simplification to have the proceedings conducted in the English language. But the matter is no longer left to the exclusive discretion of the Court; it is now required, before the Court may order the proceedings to be conducted in the English language, that all the Maltese-speaking parties should signify their consent thereto in the records of the Court.

4. In addition there are other minor changes from present practice based on administrative expediency.

5. The Bill is made in accordance with the proviso to section 5(3) of the Constitution, which lays down that the language of the Courts shall be the Maltese language; provided that Parliament may make such provision for the use of the English language in such cases and under such conditions as it may prescribe.

7th August, 1965.

A BILL  
entitled

AN ACT to make provision for the use of the English language in judicial proceedings in certain cases.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the House of Representatives of Malta, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title.

1. This Act may be cited as the Judicial Proceedings (Use of English Language) Act, 1965.

Proceedings in a Court of civil jurisdiction.

2. In a Court of civil jurisdiction -

(a) where all the parties are English-speaking persons, the Court shall order that the proceedings be conducted in the English language;

(b) where of the parties one or more is or are Maltese-speaking and one or more is or are English-speaking and all the Maltese-speaking parties make a declaration in the records of the Court consenting to the proceedings being conducted in the English language, the Court may order that the proceedings be conducted in that language;

(c) where any one of the parties is an English-speaking person and none of the parties is a Maltese-speaking person, the Court shall order that the proceedings be conducted in the English language;

(d) where a Court has ordered proceedings to be conducted in the English language, that language shall be used in all subsequent stages of the proceedings, unless the order is revoked by that Court or any other Court before which the proceedings are pending;

(e)/....

- (e) the notes of the evidence of witnesses shall be taken down in Maltese, except where the evidence is given in English, in which case such notes shall be taken down in English:

Provided that where the notes are taken down in English in proceedings which are conducted in the Maltese language or in Maltese in proceedings which are conducted in the English language, a translation of such notes into the language in which the proceedings are being conducted shall be inserted by the Registrar in the record of the proceedings as soon as practicable.

Proceedings in  
a Court of  
criminal  
jurisdiction.

3. In a Court of criminal jurisdiction -
- (a) where all the persons charged are English-speaking, the Court shall order that the proceedings be conducted in the English language;
- (b) where of two or more persons charged to either one or more is or are Maltese-speaking and one or more is or are English speaking and all the Maltese-speaking persons so charged make a declaration in the records of the Court consenting to the proceedings being conducted in the English language, the Court may order that the proceedings be conducted in that language;
- (c) where of two or more persons charged together one or more is or are English-speaking and none of the others is Maltese-speaking, the Court shall order that the proceedings be conducted in the English language;
- (d) where a Court has ordered proceedings to be conducted in the English language, that language shall be used in all subsequent stages of the proceedings, unless the order is revoked by that Court or any other Court before which the proceedings are pending;

(e)/....

- (e) where the evidence of witnesses is to be taken down, it shall be taken down in Maltese, except where it is given in English, in which case it shall be taken down in English:

Provided that where the evidence is taken down in English in proceedings which are conducted in the Maltese language or in Maltese in proceedings which are conducted in the English language, a translation of such evidence into the language in which the proceedings are being conducted shall be inserted by the Registrar in the record of the proceedings as soon as practicable.

Court decision or decree as to language.

4. In all cases the decision or decree of the Court determining the language in which proceedings are to be conducted shall be registered in the language in which it is delivered, together with a translation into English or Maltese, as the case may be, where any of the parties within three working days from the date when the decision or decree has been delivered applies for such a translation and satisfied the Registrar that he does not understand the language in which such a decision or decree has been delivered but that he understands the language into which he requests the translation to be made.

Service of acts.

5. (1) Where any act is to be served on any person whom the Registrar has reason to believe to be English-speaking, the Registrar shall cause a translation thereof to be made in the English language and service shall be effected by delivering a copy of the original and a translation thereof made by an officer of the Registry.

(2) If, for any cause whatsoever, the translation into English of any such act is not served on an English-speaking person, such person may make in the Registry, or forward to the Registrar, in any manner, a declaration to the effect that he is

an English-/. . . .

an English-speaking person and apply for an English translation of the act served on him.

(3) Upon any such application, the Registrar shall cause a translation of the act to be made as aforesaid and delivered to the applicant as soon as practicable; and, if in any such case the said application reaches the Registry of the Court not later than the time established for the closing thereof on the third working day from the date of service of the copy of the original act, any legal or judicial time the running of which is dependent on the service of the original act shall commence to run from the date of delivery of the translation.

(4) If it is proved that the said declaration was not made in good faith, the applicant shall be liable to proceedings for contempt of Court.

(5) A copy in the English language of the provisions of subsections (1) to (4) inclusive of this section shall be reproduced on or annexed to every copy of any act which is to be served on any person.

Other judicial proceedings.

6. All judicial proceedings not specifically provided for in the foregoing sections of this Act shall be conducted, as regards language, in accordance with the principles set out in those sections and in any rules made under section 30 of the Code of Organization and Civil Procedure.

Cap. 15.

Maltese-speaking persons and English-speaking persons.

7. For the purposes of this Act -

- (a) a Maltese-speaking person is a person who has a sufficient knowledge of the Maltese language fully to understand and follow the proceedings conducted in that language;
- (b) an English-speaking person is a person who has not a sufficient knowledge of the Maltese language fully to understand and follow the proceedings if conducted in that language but who has a sufficient knowledge of the English language fully to understand and

follow/....



follow the proceedings if conducted in that language;

- (c) every person shall be deemed to be Maltese-speaking unless the Court shall be satisfied to the contrary.

Amendment of enactments in Schedule.

8. The enactments mentioned in the first column of the Schedules to this Act shall be amended to the extent specified in the second column of that Schedule.

SCHEDULE

Section 8

First Column Enactment	Second Column Extent of Amendment
Criminal Code (Chapter 12)	<p>Subsection (3) of section 403 and section 517 shall be repealed.</p> <p>For section 509 there shall be substituted the following:</p> <p>"Language of 509.(1) The Maltese language shall be the language of the Courts and, subject to the provisions of the Judicial Proceedings (Use of English Language) Act, 1965, all the proceedings shall be conducted in that language.</p> <p>(2) Where any person charged does not understand the language in which the proceedings are conducted or any evidence is adduced, such proceedings or evidence shall be interpreted to him either by the Court or by a sworn interpreter."</p> <p>In subsection (2) of section 519 the word and figures "and 403 (3)" shall be deleted.</p>

In/....

L-ARKIVJI NAZZJONALI TA' MALTA

First Column Enactment	Second Column Extent of Amendment
<p>Code of Organization and Civil Procedure (Chapter 15)</p>	<p>In subsection (3) of section 519 the figures and word "403 (3) and" shall be deleted.</p> <p>For section 22 there shall be substituted the following:</p> <p>"Language of 20.(1) The Maltese Courts. language shall be the language of the Courts and, subject to the provisions of the Judicial Proceedings (Use of English Language) Act, 1965, all the proceedings shall be conducted in that language.</p> <p>(2) Where any party does not understand the language in which the oral proceedings are conducted, such proceedings shall be interpreted to him either by the Court or by a sworn interpreter"</p> <p>In paragraph (a) of subsection (1) of section 30, for the word and figures "section 22" there shall be substituted the words and figures "the Judicial Proceedings (Use of English Language) Act, 1965".</p> <p>For subsection (1) of section 593 there shall be substituted the following:</p> <p>"(1) The substance of the answers given by the witnesses shall be taken down. Every answer which may have a material bearing on the merits of the case shall be taken down word for word."</p> <p>For the marginal note of subsection (1) of section 593 there shall be substituted the following:</p> <p>"Notes of the evidence".</p> <p>Reletting/....</p>

L-ARKIVJI NAZZJONALI TA' MALTA

First Column Enactment	Second Column Extent of Amendment
Reletting of Urban Property (Regulation) Ordinance (Chapter 109)	In section 36 for the words and figure "Code of Organization and Civil Procedure (Chapter 15)" there shall be substituted the words and figure "Constitution of Malta and in the Judicial Proceedings (Use of English Language) Act, 1965".

Objects and Reasons

This Bill makes fresh provision for the use of the English language in judicial proceedings in certain cases, having regard to both the new constitutional status of Malta and practical expediency.

L-ARKIVJI NAZZJONALI TA' MALTA