Empowering the Citizen Under the Law:
The Administrative Justice Bill[1]

1. INTRODUCTION

The Minister of Justice and Home Affairs has given a first reading to a bill entitled the 'Administrative Justice Bill'[2]. This Bill is the natural follow up to a White Paper which was published by the Ministry of Justice and Home Affairs in January 2005. Since then consultations thereon must have been carried out with the end result being, inter alia, the publication of the Administrative Justice Bill. This paper thus examines the background to the proposed Bill. In particular, it briefly provides an overview of the Bill's clauses, sets out the salient provisions of the Bill, and clarifies the implications of certain provisions therein contained to Administrative Law in general namely the establishment of an Administrative Review Tribunal and appeals from decisions thereof to the Court of Appeal. The paper concludes by suggesting the way forward following the enactment of the Administrative Justice Bill into law.

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[1] This paper gives the position of the law as at 28th October, 2006.

[2] Bill No 82 published in the Supplement of the Malta Government Gazette No 17,988 dated 27 October, 2006.

2. BACKGROUND TO THE ADMINISTRATIVE JUSTICE BILL

In January 2005, the Ministry of Justice and Home Affairs launched a White Paper entitled Lejn Gustizzja Ahjar u Ehfef. At pages 49 to 51 of the English version thereof a proposal was made entitled: 'The Establishment of an Administrative Court' wherein it was stated that:

Fortunately for us throughout these last few years, the necessity of the creation of a Code which would comprise principles of administrative law and create an Administrative Court has gained ground. One cannot state that we have no administrative law and that we are creating it now. However, this is today dispersed over various special laws and regulations. It is probable that our Governments enacted ad hoc legislation and created tribunals in order to deal with particular necessities. The principles of administrative law were never codified, and the various tribunals were left without guidelines as to legal principles, applying their own criteria regarding natural justice and relying on the British legal tradition. Sometimes this has brought about great divergences in the judgments delivered by these tribunals.

There have been instances where these tribunals, once created did not deal with even one particular case throughout the period of their composition, because they would have been created as a remedy against unjust decisions by bureaucracy in areas where the criteria are so clear that very rarely would the need for a remedy arise. There are some tribunals which seem to have been created in vain. Sometimes they are forgotten. There are certain tribunals which, lacking the guidelines of a specific law, end up by substituting their own discretion to that of the Executive. The proceedings before the specials courts and ad hoc tribunals are not even uniform.

Apart from this, even where legislation has provided that decisions by administrative tribunals are in some way or another subject to judicial review by the courts, the ordinary Judiciary in the absence of any disputed point of law has shied away from interfering in the competence of the Executive, always in accordance with the principles established by Anglo-Saxon public law. In other words, tribunals and special courts felt that they were authorised to interfere even without a law to guide them, whilst the ordinary courts have kept back. Special requirements which are to be applied by ordinary courts in cases instituted by or against the government were introduced in the Code of Organization and Civil Procedure, but this was not and is not enough to guarantee a fair judicial review of administrative action, both in the interests of ordinary citizens as well as in the interests of the State itself.

The Office of the Ombudsman was created and this Office performed well in various sectors and in the majority of cases with a good margin of success. However, conflicts have arisen between various institutions concerning what could or should not be implemented from among the suggestions made by the Ombudsman.

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departments are today being supplied by corporations and specialised agencies. Some of these former agencies were privatised, but they still retain duties which many consider to be of a public service nature. It would be salutary were an Administrative Code be enacted to define the legal rights and duties in this very widespread area which neither the Commercial Code, the Civil Code, the Code of Police Laws nor the special laws enacted ad hoc and which created some of these entities cover adequately, and which would define the relationship between these entities, the ordinary citizen and Government.

There is a wealth of legal knowledge which has been collected throughout the years under the umbrella of administrative law. In a number of countries, especially those with a long history of administrative tribunals and an Administrative Code, there have been great developments which we are very far from achieving at present.

Naturally there are two steps to be taken: there is the need that an Administrative Code be drafted. This Code would gather the fruit of both our own, as well as the experience of other countries amongst which that of other European countries, whilst keeping in mind the European Union's administrative law aquis. There is also the need that a number of particular administrative tribunals be replaced by one tribunal or court with a comprehensive administrative jurisdiction. Obviously nobody expects that such a Code should be drafted in no time. However if we manage to unify all these various tribunals, then we would have made the first step forward. It may be feasible to bring this about even before the Administrative Code is drafted in its entirety, because pending its enactment, our country is not to be considered bereft of the general principles of administrative law which can be applied. Naturally this single tribunal will be given much better legal guidelines once Parliament provides it with an Administrative Code."[3]

AN OVERVIEW OF THE ADMINISTRATIVE JUSTICE BILL

The Administrative Justice Bill proposes, inter alia, the uniform application of fundamental administrative law principles to all administrative tribunals, the establishment of an Administrative Review Tribunal and appeals therefrom to the Court of Appeal. The enactment consists in six Parts and four Schedules which are divided as follows:

Part I: Preliminary Provisions
Part II: Interpretation
Part III: Administrative Tribunals
Part IV: Administrative Review Tribunal
Part V: Appeals from Decisions of the Administrative Review Tribunal
Part VI: Miscellaneous Provisions
First Schedule: List of Administrative Tribunals Respecting the Principle of Good Administrative Behaviour
Second Schedule: Competence of the Court of Appeal
Third Schedule: Amendment of Laws.

Part I provides the interpretation provision.

Part II sets out very basic rules of good administration which administrative tribunals should follow. These provisions will apply to those administrative tribunals which currently exist on our Statute Book and which are already considered to be multifarious. These rules essentially embody the principles of natural justice, the duty to give reasons and the publicity of decisions. Again, the Minister responsible for justice will bring the provisions of this Part of this Act in effect piecemeal so that he can ensure that the provisions brought into force would integrate in a harmonious manner with extant legislation so as not to shock from its roots the current system of meting out administrative justice.

Part III of the Administrative Justice Bill establishes the Administrative Review Tribunal. Currently the duties of an Administrative Court are carried out by the Civil Court, First Hall, and by various specialized tribunals. The Administrative Review Tribunal will slowly but steadily take over their functions.

Part IV establishes the relative procedure for appeals from decisions of the Administrative Review Tribunal to the Court of Appeal.

Part V consists in the saving, transitory and amendment to other laws provisions.

4 THE SALIENT PROVISIONS OF THE ADMINISTRATIVE JUSTICE BILL

Under this heading I intend to consider the salient provisions of the Administrative Justice Bill.

4.1 PRELIMINARY PROVISIONS

In the interpretation section of the Bill, it is to be pointed out that the definition of an 'administrative act' is modelled on article 469A of the Code of Organization and Civil Procedure. No significant changes are made and hence the case law of our courts developed since 1995 will continue to apply to this definition.[4]

4.2 SETTING OUT THE PRINCIPLES OF NATURAL JUSTICE

The principles of natural justice,[5] that is, the nemo judex in causa sua[6] and the audi et alteram partem[7] have

[3] For a reaction to this proposal, vide Dr. José Herrera, 'Further enhancement to our judicial system'. The Malta Independent on Sunday, 20 March 2005, p. 13.

[4] Carmelo Borg v. Ministru responsabbli mill-Gustizzja u l-Intern et, Court of Appeal, 8 November 2005; Edward Paul Tanti v. Segretarju Amministrattiv tal-Ufficju tal-Prim Ministru, Court of Appeal, 7 October 2005; Nikol Borg v. Segretarju Permanenti fl-Ufficju tal-Prim Ministru, Court of Appeal, 27 January 2006.

[5] These principles precede the human rights provisions in our Constitution and in the European Convention Act – Grazio Tabone et v. l-Avukat Generali tar-Repubblika, Constitutional Court, 31 July 2000 and Austin Gonzi v. Malta Drydocks Corporation, Civil Court, First Hall, per Mr. Justice Philip Sciberras, 27 October 2004. Vide also Antonio Sammut v. John Bell McCance noe, Civil Court, First Hall, per Mr Justice William Harding, 20 May 1946, Koll. Vol. XXXII, Pt II, p. 350. Other cases referring to natural justice are: Ignazio Gatt v. Michael Debono et, Civil Court, First Hall, per Mr Justice Prof Giuseppe Mifsud Bonnici, 2 February 1990, Koll. Vol. LXXIV, 1990, Pt III, p. 438; Dottor Vincent Falzon noe v. Isabelle Grima, Court of Appeal, 17 May 1993, Koll. Vol. LXXVII, 1993, Pt II, p. 292; Joseph Calleja vs Saviour Darmanin, Court of Appeal, Inferior Jurisdiction, per Mr Justice Joseph A Filletti, 14 January 1999, Koll. Vol. LXXXIII, 1999, Pt II, p. 1;

been codified in article 469A(1)(b)(ii) of the Code of Organization and Civil Procedure through the 1995 amendments made thereto. But no definition was then given by the said Code to the expression 'principles of natural justice' even though, admittedly, there was not really such a need for a statutory interpretation in view of the extensive elaboration given to that expression by case law, both local and British. The constitutive ingredients of the principles of natural justice have nonetheless been enshrined in Part II of the Bill and are rendered applicable to all administrative tribunals listed in the First Schedule to the Bill. By doing so, the Administrative Justice Bill brings a breadth of fresh air into administrative law. It codifies and sets out these two principles of natural justice[8] and makes them applicable for the first time in Malta across the broad to all administrative tribunals, not as is the position to date, where they were statutorily rendered applicable only to some of our existing administrative tribunals on a purely ad hoc basis. In this respect, the enactment ensures consistency in the application of these two seminal principles throughout the whole statute book. This measure is thus very welcome and is indeed much needed.

4.3 ADMINISTRATIVE TRIBUNALS

To its credit, the Administrative Justice Bill goes beyond the adoption of the above two principles of natural justice as enshrined in article 469A(1)(b)(ii) of the Code of Organization and Civil Procedure but further develops and incorporates into Maltese law several other fundamental legal principles which are recognised as being of universal application in Administrative Law, be it Maltese, English, Italian or EU for that matter. Again, even here, there did exist cases where some of these principles had been statutorily recognised and endorsed.

These additional principles of good administrative behaviour applicable to administrative tribunals comprise the following:

(a) the time within which an administrative tribunal has to take its decision has to be reasonable in the light of the circumstances of each case thus enshrining the right to a determination of one's proceedings within a reasonable time;

(b) an administrative tribunal must ensure that there is procedural equality between the parties to the proceedings thus confirming with the principle of equality of arms. Each party must be given an opportunity to present its case, whether in writing or orally or both, without being placed at a disadvantage;

(c) an administrative tribunal has to ensure that the public administration makes available the documents and information relevant to the case and that the other party or parties to the proceedings have access to these documents and information. This gives access to information held by the public administrative which would otherwise normally be considered to be of a confidential nature;

(d) proceedings before an administrative tribunal are adversarial in nature. All evidence admitted by such a tribunal must in principle be made available to the parties with a view to adversarial argument;

(e) an administrative tribunal has to be in a position to examine all of the factual and legal issues relevant to the case presented by the parties in terms of the applicable law;

(f) save as otherwise provided by law, the proceedings before an administrative tribunal have to be conducted in public;

(g) reasons must be given for the judgment. An administrative tribunal has to indicate with sufficient clarity the grounds on which it bases its decisions. Although it will not be necessary for a tribunal to deal with every point raised in argument, a submission that would, if accepted, be decisive for the outcome of the case will require a specific and express response.

ADMINISTRATIVE REVIEW TRIBUNAL

The Administrative Justice Bill establishes a new Tribunal, the Administrative Review Tribunal, which will have jurisdiction to review administrative acts of the public administration on both points of law and fact and disputes alleging the lack of conformity by the public administration with the principles of good administrative behaviour. But the Tribunal will not have a human rights and fundamental freedoms jurisdiction as this will continue to be vested in the Civil Court, First Hall, and, on appeal, in the Constitutional Court. The Tribunal will also have the power to review administrative action and to annul decisions of the public administration. The Tribunal itself will also have to comply with the principles of good administrative behaviour.

Johann Camilleri vs Ronald A Cachia, Phoenicia Laundry and Dry Cleaning, Court of Appeal, Inferior Jurisdiction, per Mr Justice Carmel A. Agius, 27 May 1999, Koll. Vol. LXXXIII, 1999, Pt II, p. 27; Grazio Cassar et vs Edgar Camilleri – Soap & Sponge Ltd., Court of Appeal, Inferior Jurisdiction, per Mr Justice Carmel A. Agius, 3 December 1999, Koll. Vol. LXXXIII, 1999, Pt II, p 129; Power Projects Ltd. v. Stephen Agius et, Court of Appeal, Inferior Competence, per Mr Justice Philip Sciberras, 16 June 2003; Eden Leisure Group v. Salvino Borg D'Anastasi, Court of Appeal, 27 June 2003; Alex Mangion v. Anthony Cilia Pisani noe, Civil Court, per Mr Justice Tonio Mallia, 20 May 2004.

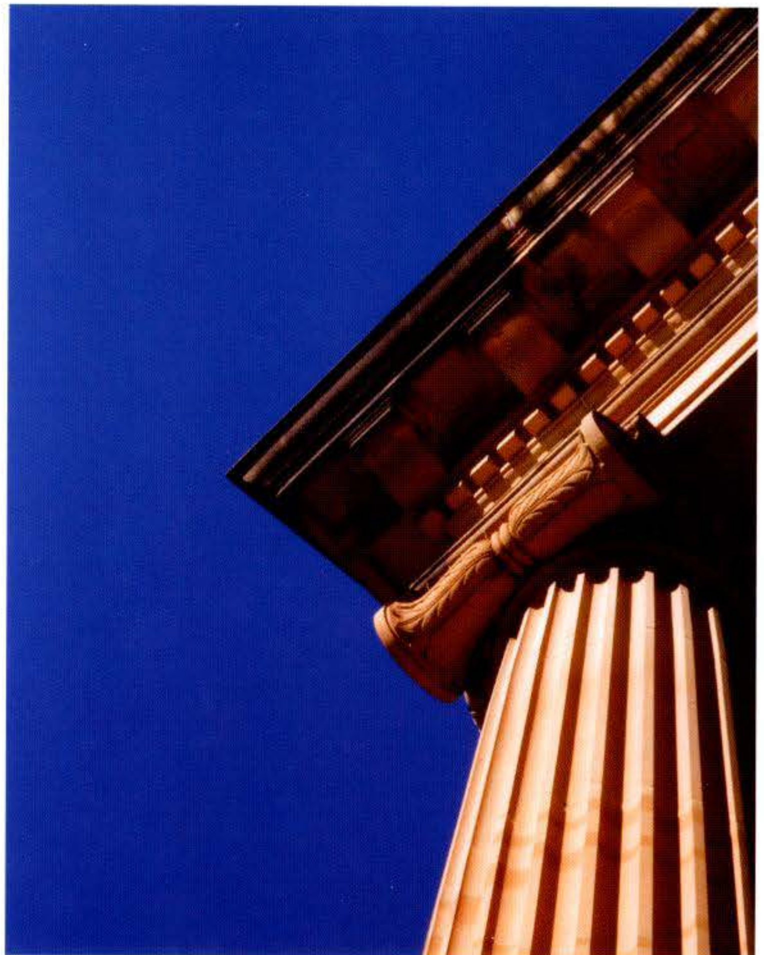
[6] Relevant case law asserting this principle is, for instance, Antonio Sammut v. John Bell McCance noe, Civil Court, First Hall, per Mr Justice William Harding, 20 May 1946, Koll. Vol. XXXII, Pt II, p. 350; L-E.T. Rev.ma Monsinjur Arcisqof Giuseppe Mercieca pro et noe vs. Onor Prim Ministru et, Constitutional Court, 22 October 1984, Koll. Vol. LXVII, 1984, Pt I, p. 42 and Il-Qorti v. Antoine R Camilleri, Civil Court, First Hall, per Mr Justice Victor Caruana Colombo, 9 November 1990, Koll. Vol. LXXIV, 1990, Pt III, p. 546. Decisions of the Planning Appeals Board on this subject are: Carmelo Zammit v. Development Control Commission decided on 30 June 1995; Anthony Vella on behalf of Leisure & Theme Park Ltd. v. Planning Authority, decided on 20 December 1995; Louise Ann Sultana v. Development Control Commission, decided on 30 June 1995; Anthony Cauchi v. Development Control Commission decided on 23 February 1996; Carmelo Zammit v. Development Control Commission decided on 18 June 1997; Emanuel Agius v. Development Control Commission decided on 30/06 1998.

The advantages of having such a sole reviewing tribunal are manifold and comprise the following:

(a) it ensures uniformity in decision making;
(b) court judgments are accessible on the Ministry's web page whilst the vast majority of decisions of administrative tribunals are still shrouded in secrecy. All the Tribunal's decisions will thus be accessible to the public in the same way as court judgments are;
(c) it rationalises the procedures by streamlining them both in so far as time periods are concerned, the registry where proceedings are to be filed, the secretary who is to serve the tribunal, the forms to be used, etc.;
(d) it avoids duplication of administrative structures and thereby reduces Government spending.
On the other hand, the current set up of sectoral administrative tribunals include the following disadvantages:
(a) they are very costly to the Government coffer as each tribunal must have its own structure: chairmen and members, secretary, other staff which can include typists, accountant, messenger, I.T. infrastructure, premises, auditors, vehicles, etc;
(b) decisions are not always uniform as although the laws might be identical, situations have existed where different boards deliver divergent, and at times contradictory, decisions on similar facts at issue;
(c) their decisions are not always and invariably accessible to the general public;
(d) they do not enjoy the constitutional safeguards which such a Tribunal will possess such as impartiality and independence; at other times, although they are impartial and independent they are not so perceived by the public;
(e) they do not provide for a uniform standard of principles of good administrative behaviour as each tribunal uses its own subjective standards.

The Tribunal will be presided by a Judge or Magistrate or a retired member of the judiciary. Panels of assistants having previous experience and special qualifications in a particular field are to be appointed to assist the Tribunal's chairperson. Sections of the Tribunal may also be established.

[7] Vide, for instance, Sammut v Bell McCance, 29 May 1946, Kollez.Vol. XXXII.II.350; Erik Gollcher noe v. Lt Denis Higgins, R.N., noe, Court of Appeal, 31 May 1948, Koll.Vol. XXXIII, 1948, Pt I, p. 648; Josephine Cassar v. Walter Attard, Civil Court, First Hall, per Mr Justice Tancred Gouder, 22 November 1951, Koll. Vol. XXXV, 1951, Pt. II, p. 514; Giuseppe Felice Monna v Edward Spiteri, Civil Court, First Hall, per Mr Justice Alberto Magri, 26 March 1953, Koll.Vol. XXXVII, 1953, Pt. II, p. 675; A.B. v. Nutar Dottor Vincenzo Gatt fil-kwalita' tieghu ta' Kummissarju tat-Taxxi Interni, Court of Appeal, 4.12.1956; Leone Misrahi v. Rosaria armla minn Giuseppe Cassar et, Constitutional Court, 10 June 1966; Joseph Falzon v. Anthony Debono noe, Court of Appeal, Commercial Competence, 13 January 1975; Saviour Chircop et v. Av. Dr. René Frendo Randon noe, Court of Appeal, Civil Competence, 12 October 1979; Anthony Ellul Sullivan noe vs Lino Vassallo noe, Commercial Court, 2 June 1983, Koll.Vol. LXVII, 1983, Pt. IV, p. 343; Perit Rene' Buttigieg et vs. Carmelo Abela, Court of Appeal, 24 June 1985, Koll.Vol. LXIX, 1985, Pt. II, p. 259; Kummissarju ta' l-Artijiet vs. Maria Concetta Cassar et, Court of Appeal, 24 February 1986, Koll.Vol. LXX, 1986, Pt II, p. 141; Alessio Borg v. Carmena sive Lina Muscat, Court of Appeal, Commercial Competence, 10 November 1986, Koll. Vol. LXX, 1986, Pt II, p. 377; Carmel Libreri v. Direttur tas-Servizzi Socjali, Court of Appeal, 19 June 1987; Anthony Ellul Sullivan noe vs Lino C.Vassallo noe et, Court of Appeal, Commercial Competence, 26 June 1987, Koll.Vol. LXXI, 1987, Pt. II, p. 356; Alfred Gatt noe vs Godwin Abela et noe, Court of Appeal, Commercial Competence, 28 July 1987, Koll.Vol. LXXI, 1987, Pt II, p. 400; Emanuel Bezzina noe v Walter Bezzina noe, Court of Appeal, Commercial Competence, 26 August 1987, Koll.Vol. LXXI, 1987, Pt. II, p. 418; Peter Azzopardi v. Raymond Camilleri, Court of Appeal, Commercial Competence, 18 November 1987; Anthony McKay v. Antonia Incorvaja pro et noe, Court of Appeal, Commercial Competence, 21 March 1988, Koll.Vol. LXXII, 1988, Pt II, p. 484; Joseph Felice Pace vs. Godwin Abela noe, Court of Appeal, Commercial Competence, 16 October 1989, Koll.Vol. LXXIII, 1989, Pt II, p. 585; A.B. v. Kummissarju tat-Taxxi Interni, Court of Appeal, 11 December 1989; Alfred Aquilina v. Architect Keith Cole noe et, Court of Appeal, Koll. Vol.LXXIV, 1990, Pt. II, p. 379; A.B. v. Kummissarju tat-Taxxi Interni, Court



4.5 JUDICIAL REVIEW OF ADMINISTRATIVE ACTION

In addition to enforcing the principles of good administrative behaviour, the Administrative Review Tribunal will be responsible for judicial review of administrative action. However, it is not the intention of this paper to delve into this aspect since this would merit a separate study in its own right.

4.6 APPEALS FROM DECISIONS OF THE ADMINISTRATIVE REVIEW TRIBUNAL

There is a right of appeal from the decisions of the Administrative Review Tribunal, on a point of law, to the Court of Appeal. Certain appeals will be filed to the Court of Appeal sitting in its superior competence or in its inferior competence.

4.7 MISCELLANEOUS PROVISIONS

Part V of the Administrative Justice Bill consists of two provisions, the repeal and saving clause and the consequential amendments to other legislation. The former provision provides that pending cases before persons, bodies and administrative tribunals will be transferred to the Administrative Review Tribunal apart from those cases which had been put off for final oral or written submissions or for judgment. The latter provision proposes amendments to nine primary laws and eight subsidiary laws.

4.8 ADMINISTRATIVE TRIBUNALS RESPECTING THE PRINCIPLE OF GOOD ADMINISTRATIVE BEHAVIOUR

The First Schedule consists of a list of Administrative Tribunals to whom the principles of good administrative behaviour apply. Once again, the law is flexible enough to enable the Minister to make such amendments, alterations, deletions, repeals, corrections, changes and modifications to any primary law or subsidiary law for the purpose of

bringing such primary law or subsidiary law in conformity with the provisions of the Administrative Justice Bill and to update the list of administrative tribunals listed in this Schedule.

Jurisdiction of the Court of Appeal when hearing Appeals from Decisions of the Administrative Review Tribunal

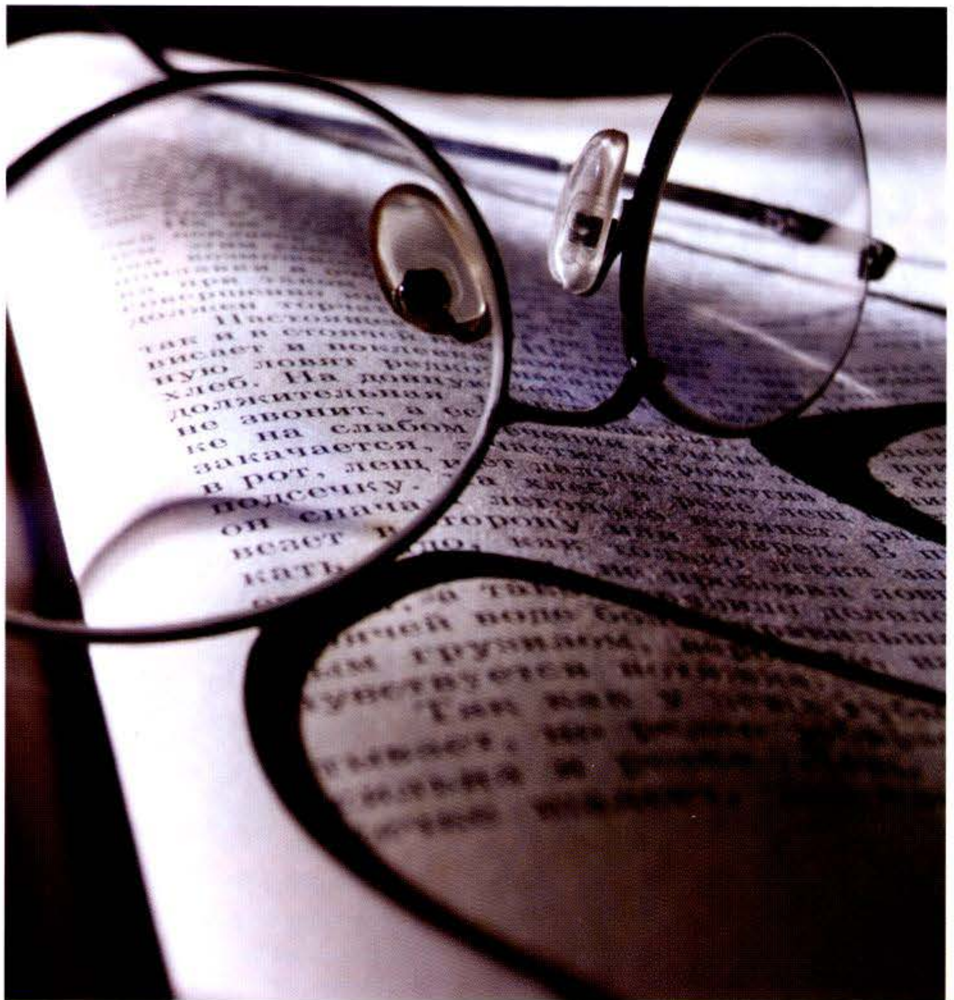
The Second Schedule gives a list of those administrative bodies whose functions initially will be taken over by the Administrative Review Tribunal. As an appeal can be lodged to the Court of Appeal from a decision of the said Tribunal, the Second Schedule establishes which composition of the Court of Appeal will hear that appeal, that is, whether the Court of Appeal will be sitting in its superior competence composed of the Chief Justice and two judges or in its inferior competence composed of only one judge.

4.10 AMENDMENT OF LAWS

The Third Schedule consists in a list of laws whose provisions are being amended in order to establish the Administrative Review Tribunal as the competent tribunal which will review decisions taken under that law instead of the hitherto existing reviewing bodies.

5 CONCLUSION

The main contribution of the Administrative Justice Bill is that this bill will manage, in one single law, to take on board all the principles of good administrative behaviour and apply these principles to all administrative tribunals indiscriminately. Indeed, this holistic vision –'13 as opposed to a fragmentary approach which we have been accustomed to since Independence - will hopefully inculcate in our legislator the urge to look at law-making from a different perspective: one which tries to address Maltese society in a more comprehensive, consistent and coherent way. But the legislator should not stop here. Our law should apply the principles of good administration to the public administration as well. ■



of Appeal, 29 May 1991; Roccu Buhagiar vs Jean Buhagiar, Court of Appeal, 7 October 1991, Koll. Vol. LXXV, 1991, Pt. II, p. 450; Mary Grech v Minister for Works et, Court of Appeal, 29 January 1993; Tony Demajo noe vs. Emmanuel Vella, Court of Appeal, 8 February 1993, Koll. Vol. LXXVII, 1993, Pt. II, p. 214; Perit René Buttigieg et v. Carmelo Abela, Court of Appeal, 24 June 1995, Koll. Vol. LXIX, Pt. II, p. 259; Michael Sciberras et v. Chairman Planning Authority et, Court of Magistrates (Gozo) (Superior Jurisdiction) per Magistrate Dr Paul Coppini, 6 February 1996; Emanuel Caruana noe v. Elaine Cachia, Court of Appeal, 22 November 1996; Ludwig Camilleri et noe v. Chairman Planning Authority, Court of Appeal, 28 February 1997; Busy Bee Ltd v. Joseph M. Said, Court of Appeal, Inferior Jurisdiction, 21 March 1997; Walsh's Limited v. Planning Authority, Civil Court, First Hall, per Mr Justice Giannino Caruana Demajo, 26 March 1997; Saviour Farrugia noe v. Anthony Wismayer, Court of Appeal, 25 June 1997; Lawrence Ciantar v. Anthony Montebello, Court of Appeal, 7 October 1997; Peter Azzopardi v. Raymond Camilleri, Court of Appeal, Commercial Competence, 18 November 1987, Koll. Vol. LXXI, 1987, Pt. II, p. 514; Charles Mangion v. Development Control Commission, decided by the Court of Appeal on 11 May 1998; Dr Gowdin J Aquilina LL.D. noe vs Godwin Abela noe et, Court of Appeal, 5 October 1998, Koll. Vol. LXXXII, 1998, Pt. II, p. 745; Paul Vella v. Planning Authority et, Court of Appeal, 11 January 1999; Johann Camilleri v. Ronald A. Cachia Phoenicia Laundry and Dry Cleaning, Court of Appeal, 27 May 1999; Allied Insurance Services Limited noe v. Richard Azzopardi, Court of Appeal, Inferior Competence, per Mr Justice Joseph Said Pullicino, 24 March 2000; Joseph Galea vs Sandra Vassallo, Court of Appeal, Inferior Jurisdiction, per Mr Justice Joseph A. Filletti, 26 January 2001; Romina Vella v. Ronald Cachia Phoenicia Laundry & Dry Cleaning, Court of Appeal, 24 April 2001; Guido J. Vella A. & C.E. v. Dr Emanuel Cefai LL.D., Court of Appeal, 5 October 2001; Georgina Saydon et vs Emanuel Muscat, Court of Appeal, Inferior Competence, per Mr Justice Joseph A. Filletti, 24 September 2001, Koll. Vol. LXXXV, 2001, Pt. II, p. 196; Dr. David Camilleri bhala prokuratur ta' l-assenti Alessandro Zaninelli v. Players' Coaches Complaints Board tal-Malta Football Association u l-Malta Football Association, Civil Court, First Hall, per Mr Justice Albert J. Magri, 23 November 2001; Joseph u Marika konjugi Vassallo v. Anthony u Rita konjugi Bondin, Court of Appeal, 5 December 2001; Jean Schembri et v. Queen's Dry Cleaners, Court of Appeal, Inferior Competence, per Mr Justice Philip Sciberras, 10 January 2003; Chairman tal-kumpanija Public Broadcasting Services Limited et noe v. Awtorita tax-Xandir et, Court of Appeal, 15 January 2003; Charles Borg proprio u ezercenti l-kummerc bl-isem ta' Zo'Diac Furniture ghan-nom u in rapprezentanza tal-istess v. John u Mary konjugi Curmi, Court of Appeal, Inferior Jurisdiction, per Mr Justice Philip Sciberras, 20 January 2003; Pantalleresco v. Starbrite Cleaners, Court of Appeal, Inferior Jurisdiction, per Mr Justice Philip Sciberras, 12 May 2003; Power Projects Ltd v. Stephen Agius et, Civil Court, First Hall, per Mr Justice Philip Sciberras, 16 June 2003; Scerri Diacono v. Borg Bonaci, Court of Appeal, Inferior Competence, 7 July 2003; Martin Aquilina ezercenti l-kummerc taht l-isem Handkrafts v. Christopher Friggieri, Court of Appeal, Inferior Jurisdiction, per Mr Justice Philip Sciberras, 20 October 2003; Salon Services Limited v. Elaine Dimech, Civil Court, First Hall, per Mr Justice Tonio Mallia, 13 November 2003; Philip Ellul v. Peter Galea, Court of Appeal, Inferior Competence, per Mr Justice Philip Sciberras, 14 January 2004; A.B. v. Direttur tat-Taxxa tad-Dwana u Tas-Sisa, Court of Appeal, Inferior Jurisdiction, per Mr Justice Philip Sciberras, 23 January 2004; Doris Camilleri v. Cettina Scerri, Court of Appeal, Inferior Competence, per Mr Justice Philip Sciberras, 25 February 2004; Anthony Muscat v. Avukat Generali et, Civil Court, First Hall, Constitutional Competence, per Mr Justice Tonio Mallia, 7 July 2004; George Attard u ghal kwalunkwe nteress li jista' jkollha martu Antonia Attard v. Mary Jane mart George Portelli, Court of Appeal, Inferior Competence, per Mr. Justice Philip Sciberras, 14 July 2004; A.B. Ltd. v. Kummissarju tat-Taxxa fuq il-Valur Mizjud, Court of Appeal, Inferior Jurisdiction, per Mr Justice Philip Sciberras, 6 October 2004; L-Avukat Antoine Naudi fil-kwalita' tieghu bhala mandatarju specjali tad-ditta estera Elaflex Italia S.r.l. v. John Abela Ltd, Court of Appeal, Inferior Competence, per Mr Justice Philip Sciberras, 9 February 2005; Ceiling Systems Limited v. D & S Limited, Court of Appeal, Inferior Competence, per Mr Justice Philip Sciberras, 16 March 2005; Avukat Anthony De Gaetano v. Awtorita' tal-Ippjanar, Civil Court, First Hall, per Mr Justioce Geoffrey Valenzia, 30 March 2005. This principle has also been upheld by the Planning Appeals Board in Juan Debattista v. Development Control Commission decided on 29 October 1993, Joseph Vella v. Development Control Commission decided on 28 January 1994, Marguerite Mangion v. Development Control Commission decided on 15 April 1994 and Gordon Asciak v. Planning Authority decided on 20 December 1995.

[8] Vide A.B. v. Joseph Mifsud Bonnici M.B.E. bhala Kummissarju tat-Taxxi Interni, Court of Appeal, 13 December 1961; Leone Misrahi v. Rosaria armla minn Giuseppe Cassar et, Constitutional Court, 10 June 1966; Dr Alfred Sant noe v. Commissioner of Inland Revenue, Court of Appeal, 4 March 1992; Frederick Mifsud Bonnici v. Planning Authority, Court of Appeal, 26 April 1996; Ludwig Camilleri noe v. Chairman of the Planning Authority, Court of Appeal, 28 February 1997; Joseph Mifsud v. Development Control Commission, Court of Appeal, 30 May 1997; Alex Mangion v. Anthony Cilia Pisani noe, Civil Court, First Hall, per Mr Justice Tonio Mallia, 20 May 2004.