

Award in Civil Procedure

Lecture 3: Drafting of Judicial Acts

Lecturer: Dr. Emma Portelli Bonnici

Date: Tuesday 13th February, 2024



**Diploma in Law
(Malta)**

Revision: What are Judicial Acts?

A judicial act is the generic term used to describe all documents which are filed through the courts, including:

1. Judicial letters and judicial protests
2. Applications and sworn applications
3. Replies and sworn replies
4. Notes
5. Warrants
6. Schedules of deposit



Każ Nru. 1

ABC Ltd hija sid ta' ħanut tal-għamara u bieghhet kċina lil Patrick Bugeja għal €30,000. Patrick ħallas depożitu ta' €4000. Il-kċina giet kunsinnata u installata minn ABC Ltd. Madanakollu, Patrick għadu ma ħallasx il-bilanċ pendent. ABC Ltd jiġu għandek għal parir.

Diskussjoni:

- a) X'rimedju għandhom ABC Ltd?
- b) X'tip ta' ittra ufficjali tista' tiġi preżentata
- c) X'tip ta' kawża tista' tiġi ppreżentata?



Case 1

ABC Ltd is the owner of a furniture store that sold a kitchen to Patrick Bugeja for €30,000. Patrick paid a deposit of €4000. The kitchen was ordered and installed by ABC Ltd. Patrick has not paid the pending balance. ABC Ltd come to you for legal advice.

Discussion:

- a) What remedies to ABC Ltd have?
- b) What type of official letter can be presented?
- c) What type of case can be opened in Court?



Każ Nru 1

- a) Abbozza ittra ufficjali
- b) Abbozza rikors ġuramentat għal proċedura bil-giljottina



Case 1

- a) Draft an official letter
- b) Draft a sworn application for the *giljottina* procedure



Każ Nru. 2

Kris huwa sid tal-bejt u l-arja ta' blokka appartamenti bl-isem ta' 'Tal-Ħadid', Triq it-Tuffieħ, Qawra u jixtieq jiżviluppa l-arja. Sarah, is-sid ta' wieħed mill-appartamenti fil-blokka, qed tallega li hija sid ta' parti mill-bejt u l-arja u qed theddhed li ser tieġu passi legali kontra Kris jekk imexxi bl-iżvilupp.

Diskussjoni:

- a) x'rimedju għandu Kris?
- b) X'tip ta' att ġudizzjarju jista' jippreżenta?
- c) X'tip ta' kawża tista' tiġi ppreżentata?



Case 2

Kris is the owner of the roof and air space of the block of apartments named 'Tal-Ħadid' in Triq it-Tuffieħ, Qawra and he wants to develop the airspace. Sarah, the owner of one of the apartments in the block, is alleging that she is the part owner of some of the roof and the airspace and is threatening to take legal action against Kris if he goes forward with the development plans.

Discussion:

- a) What legal remedies are available to Kris?
- b) What type of judicial act can be presented to the court?
- c) What kind of case can be opened in Court?



Każ Nru. 2

- Abbozza protest ġudizzjarju



Case 2

- Draft a judicial protest



Każ Nru. 3

Gianni huwa kuntrattur u ġie mqabbad minn Fredu sabiex jibni blokka appartamenti f'Birkirkara. Gianni lesta x-xogħlijiet u bgħat il-kont lil Fredu għall-ħlas ta' €100,000. Gianni bagħat ittra ufficjali lil Fredu iżda dan wieġeb billi qal li mhux ser iħallas għax ix-xogħol sar ħażin u kellu jqabbad lil ħaddieħor jirranġa warajh.

Diskussjoni:

- a) X'rimedju għandu Gianni?
- b) X'tip ta' kawża tista' tinfetaħ? Għalfejn?
- c) X'rimedju għandu Fredu meta jiġi notifikat bil-kawża?

Case 3

Gianni is a contractor who has been hired by Fred to build a block of apartments in Birkirkara. Gianni finished his work and sent a bill to Fred requesting the amount of €100,000. Gianni sent an official letter to Fred and he replied saying that he won't be paying as the work was done badly and he had to get someone else to fix the bad workmanship.

Discussion:

- a) What remedies are available to Gianni?
- b) What type of case can be opened? Why?
- c) What remedies does Fred have when he's notified of the case?



Każ Nru. 3

- Abbozza rikors ġuramentat għal Gianni
- Abbozza risposta ġuramentata u kontro-talba għal Fredu



Case 3

- Draft a sworn application for Gianni
- Draft a sworn reply and a counterclaim for Fredu





Diploma in Law (Malta)

CAMILLERI PREZIOSI
ADVOCATES

Każ Nru. 4

123 Architects Limited hija ditta tal-Periti li provdjet servizzi professjonali lil Mary Galea fir-rigward tal-kostruzzjoni u d-disinn tad-dar tagħha fil-Madliena. 123 Architects ħarġet fattura għas-servizzi fl-ammont ta' €17,000. Mary qed tirrifjuta li tħallas għaliex hi tishaq li diġa' ħallset għas-servizzi reži.

Diskussjoni:

- a) x'rimedju għandha 123 Architects Limited? X'tip ta' ittra ufficjali tista' tintuża f'dan il-każ?
- b) X'rimedju għandha Mary meta tiġi notifikata?



Case 4

123 Architects Limited is an architecture firm that provided professional services to Mary Galea in relation to the construction and design of her Madliena home. 123 Architects sent an invoice for services in the amount of €17,000. Mary is refusing to pay as she is claiming that she already paid for services rendered.

Discussion:

- a) What remedies does the architecture firm have? What kind of official letter can be used in this case?
- b) What remedy does Mary have once she's notified?



Każ Nru. 4

- Abbozza ittra ufficjali 166A
- Abbozza nota ta' oppożizzjoni għal ittra ufficjali 166A



Case 4

- Draft an official letter 166A
- Draft a note opposing the 166A letter received



Każ Nru 5.

F1-20 ta' Diċembru 2021, Maria Borg sfat imtajjra minn vettura li kienet qed tinstaq minn Joe Grech, waqt li din kienet qed taqsam il-bypass tal-Imrieħel. B'riżultat ta' dan, Maria sofriet diżabbilita' permanenti. Ħadet passi kontra Joe u fetħitlu kawża. Fil-31 ta' Jannar 2023, ingħatat sentenza li sabet lil Joe unikament responsabbli għall-incident u ordnatlu jħallas lill-Maria l-ammont ta' €400,000.

Joe ma jaqbilx mad-deċiżjoni għaliex skontu:

1. L-ewwel qorti naqset milli tikkunsidra l-prova ċara li Maria qasmet bypass mingħajr ma ħarset iż-żewġ naħat u mingħajr ma użat it-traffic lights li kienu ftit l-isfel.
2. Il-kumpens ġie kkalkulat fuq 20% diżabbilita' permanenti mingħajr ma ttieħdet in konsiderazzjoni li Maria diġa' kellha diżabbilita' permanenti ta' 7% li ma kellhiex x'taqsam ma' dan l-incident.

Diskussjoni - X'rimedju għandu Joe?



Case 5

On the 20th December 2021, Maria Borg was run over by a vehicle driven by Joe Grech, whilst she was crossing the Imrieheh Bypass. As a result of this incident, Maria suffered permanent disability. She took legal action against Joe and opened a case. On the 31st January 2023 the Courts handed down a sentence finding Joe solely responsible for the incident and ordered that he pay Maria the amount of €400,000.

Joe did not agree with the decision of the Court as he believes that:

1. The court of first instance didn't take into consideration the clear evidence that Maria crossed the bypass without looking both ways and without using the pedestrian crossing (traffic lights) that were slightly further down.
2. The compensation was calculated on 20% disability without taking into consideration the fact that Maria already had 7% disability that had nothing to do with this accident.

Discussions - What remedies does Joe have?



Case 5 Contd.

Maria rċeviet l-appell u ma taqbilx. Hi ssostni li filfatt ħarset iż-żewġ naħat qabel qasmet, li l-lights ma kienux qed jaħdmu dak il-ħin. Hi taqbel mad-deċiżjoni tal-ewwel qorti li Joe huwa responsabbli għaliex kien qed isuq b'velocitra' eċċessiva.

Diskussjoni – x'rimedju għandha Maria?



Case 5 Contd.

Maria received the appeal and does not agree with what it contains. She claims that she did look both ways before crossing, and that the traffic lights were not working at that time. She agrees with the decision of the courts that Joe is responsible because he was driving at excessive speed.

Discussion – what remedies does Maria have?



Każ Nru. 5

- Abbozza rikors tal-appell għal Joe
- Abbozza risposta tal-appell għall-Maria



Case 5

- Draft an application for appeal for Joe
- Draft a reply to Joe's appeal for Maria





**Diploma in Law
(Malta)**