

The Courts of Justice in Malta and the Legal Profession

The Judicial process within the Courts Of Justice

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Lecture 8

Judicial process within the Courts of Justice in Malta



The Judicial Process

- The judicial process within the **Courts of Justice in Malta** is a structured and systematic procedure through which legal disputes are heard, examined, and resolved. It is based on the principles of **rule of law, fair trial, and separation of powers**. This process is designed to ensure justice, protect individual rights, and maintain public order.



Structure of the Courts

- **Structure of the Courts of Justice in Malta**
- The Maltese court system is divided into various levels, each with distinct jurisdictions. These courts handle criminal, civil, constitutional, and administrative matters. The main divisions include:
- **Inferior Courts:**
 - **Court of Magistrates:** Handles minor criminal and civil cases. In criminal cases, it deals with offenses punishable by up to twelve years imprisonment, while in civil cases, it has jurisdiction over claims not exceeding €15,000.
- **Superior Courts:**
 - **Civil Court (First Hall):** This court deals with civil disputes involving claims over €15,000. It also has jurisdiction over constitutional and human rights issues.
 - **Criminal Court:** Handles serious criminal cases such as murder, armed robbery, and major fraud, typically heard before a judge or a judge and a jury panel.
 - **Court of Appeal:** Divided into two sections:
 - **Court of Appeal (Inferior Jurisdiction):** Hears appeals from the Court of Magistrates.
 - **Court of Appeal (Superior Jurisdiction):** Hears appeals from decisions of the Civil Court and other superior courts such as the Criminal Court.
 - **Constitutional Court:** This court addresses breaches of constitutional and human rights, reviews decisions by the Civil Court (First Hall) in constitutional matters, and resolves disputes relating to the interpretation of the Constitution of Malta.
- **Specialized Courts:**
 - **Family Court:** Handles family-related issues, such as divorce, child custody, and maintenance.
 - **Commercial Court:** Deals with business disputes, insolvency, and corporate matters.
 - **Industrial Tribunal:** Addresses labor disputes between employers and employees.
 - **Administrative Review Tribunal:** Reviews decisions made by public authorities.



Judicial Officers and Their Roles

- **Judges:** Preside over cases in the superior courts, such as the Civil Court and Criminal Court. They decide on matters of law, oversee the proceedings, and in criminal cases, instruct juries on legal principles.
- **Magistrates:** Handle cases in the Court of Magistrates. They act as both “judge” and fact-finder in criminal and civil cases within their jurisdiction.
- **Juries:** In criminal cases heard by the Criminal Court, a jury of nine individuals determines the facts of the case, and the judge delivers the sentence based on the jury’s findings.
- **Advocates (Lawyers):** Represent clients before the courts. They prepare legal arguments, present evidence, cross-examine witnesses, and make submissions to the court.
- **Notaries:** While not judicial officers, notaries in Malta play a significant role in authenticating documents and preparing important legal deeds, especially in civil cases involving property or contractual matters.
- **Judicial Assistants:** Provide assistance to judges by conducting legal research and helping manage case files.



The Judicial Process

- The judicial process within the Courts of Justice in Malta follows several stages, depending on whether the case is:
 - A civil case or
 - A criminal case.



Civil Judicial Process

- The civil judicial process deals with disputes between individuals or entities, such as property claims, contract disputes, and family law matters.

1. Filing of a Claim:

1. The claimant (plaintiff) files a written application (writ of summons "rikors") outlining their claim before the competent court, such as the **Civil Superior Court** or the **Court of Magistrates** (depending on the amount or nature of the claim).

2. Service of Process:

1. The court issues a formal notice to the defendant, informing them of the legal action and providing a copy of the plaintiff's claim. The defendant is required to respond within a specific time frame, typically 20 days.

3. Pleadings and Pre-Trial Stage:

1. The defendant files their defense (statement of defense), and the court may schedule a **pre-trial hearing** to determine if the case should proceed. At this stage, the parties may be encouraged to reach a settlement through **mediation**.

4. Trial Stage:

1. During the trial, both parties present their arguments, evidence, and witness testimony. The court may also hear expert witnesses, and both sides are given the opportunity to cross-examine witnesses.
2. In family law matters (e.g., child custody), the **Family Court** may request social worker reports or other expert assessments.

5. Judgment:

1. The judge or magistrate delivers a judgment based on the legal merits of the case and the evidence presented. In civil cases, the judgment may include **financial compensation** or orders for **specific performance**.

6. Appeal:

1. The losing party has the right to appeal the decision to the **Court of Appeal** (Inferior or Superior Jurisdiction, depending on the court of origin). The appeal process usually focuses on questions of law rather than fact.



Criminal Judicial Process

- The criminal judicial process deals with offenses against the state, such as theft, assault, murder, and other criminal acts.
- 1. Investigation and Arrest:**
 1. Criminal proceedings are typically initiated by the police following an investigation. If there is enough evidence, the police will charge the suspect and bring them before a magistrate for arraignment.
 - 2. Arraignment:**
 1. At the **arraignment**, the accused is formally charged, and they may plead guilty or not guilty. If the accused pleads not guilty, the case proceeds to trial.
 - 3. Preliminary Inquiry:**
 1. For serious crimes, the **Court of Magistrates** conducts a **preliminary inquiry** to determine if there is enough evidence to proceed to trial in the **Criminal Court**.
 2. If the magistrate finds sufficient evidence, the case is referred to the **Attorney General**, who will issue a bill of indictment.
 - 4. Trial (for Serious Offenses):**
 1. The trial takes place in the **Criminal Court**, with a judge and a jury. The prosecution presents its case, including evidence and witnesses, and the defense has the opportunity to rebut these.
 2. The jury deliberates on the facts and delivers a **verdict of guilty or not guilty**. If found guilty, the judge delivers the sentence.
 - 5. Judgment and Sentencing:**
 1. In less serious offenses, the **Court of Magistrates** may deliver both the judgment and the sentence. In serious offenses tried by jury, the judge issues the sentence based on the jury's verdict.
 - 6. Appeal:**
 1. The convicted person can appeal to the **Court of Criminal Appeal**, which reviews the legal aspects of the trial to ensure that there were no errors in the application of the law.



Alternative Dispute Resolution

- In addition to the formal court proceedings, Malta offers various alternative dispute resolution (ADR) mechanisms, such as mediation and arbitration. These methods aim to resolve disputes outside of court in a more efficient and cost-effective manner.
- Mediation: Often used in family law disputes, mediation involves a neutral mediator who helps the parties reach an amicable settlement.
- Arbitration: In commercial disputes, arbitration provides an alternative to court litigation, where a neutral arbitrator hears the case and delivers a binding decision.
- Constitutional and Human Rights Cases: Maltese citizens may bring constitutional claims if they believe their fundamental rights, as protected by the Constitution of Malta or the European Convention on Human Rights, have been violated. These cases are heard by the Civil Court (First Hall) in its constitutional jurisdiction, with an appeal to the Constitutional Court.



Why is the judicial process a comprehensive system ?

- The judicial process in the **Courts of Justice in Malta** is a comprehensive system designed to ensure that legal disputes are resolved fairly and according to the rule of law. The structured court hierarchy, the right to appeal, and the role of judicial officers ensure that justice is administered impartially. By safeguarding individual rights, providing avenues for legal redress, and upholding the law, the Maltese judicial system plays a vital role in maintaining the country's democratic principles and public order.



Types of courts

- Civil Courts: Handle personal disputes such as contracts, property, family matters (divorce, custody), and small claims.
- Criminal Courts: Deal with criminal offenses, from minor offenses to serious crimes.
- Appeal Courts: These courts hear appeals if you disagree with the outcome of your case in the lower courts.
- Specialized Tribunals: These handle specific types of disputes, such as employment matters (Industrial Tribunal), administrative decisions (Administrative Review Tribunal), and small claims (Small Claims Tribunal).



Judicial Process

- The **judicial process** refers to the set of procedures and activities carried out by courts and judicial bodies to resolve legal disputes, interpret laws, and ensure justice is delivered.
- It encompasses everything from the filing of cases to the issuance of judgments and enforcement of court orders.
- The judicial process ensures that the rule of law is upheld and that parties in a dispute have their issues fairly adjudicated by an impartial authority.
- The judicial process is guided by laws, rules of procedure, and precedents to ensure fairness, justice, and adherence to legal standards. It serves as the primary mechanism for resolving disputes in a legal system.



Judicial Process cont'd

- Filing of a Case – A party (plaintiff or petitioner) initiates a lawsuit by submitting a legal complaint or petition.
- Pre-Trial Proceedings – This stage involves motions, hearings, discovery (exchange of evidence), and sometimes settlement discussions.
- Trial – The case is presented in court, with both parties offering evidence and arguments. This can be a bench trial (decided by a judge) or a jury trial.
- Judgment – After hearing both sides, the judge (or jury) issues a judgment, determining the outcome of the case based on law and facts.
- Appeal – If one party is dissatisfied with the outcome, they may appeal the decision to a higher court, which reviews the lower court's ruling.
- Enforcement – The judicial process concludes with the enforcement of the court's judgment, which may involve awarding damages, enforcing orders, or imposing penalties.



Assisting the general public in understanding the legal system

- Assisting the general public in understanding the legal system and courts of justice in Malta requires providing clear, straightforward guidance on basic procedures, rights, and the structure of the system.



Basic Instructions for Navigating the Courts of Justice in Malta

- **Know Your Rights**
- **Access to Justice:** Everyone has the right to seek legal remedy or defense through the courts of justice.
- **Right to Legal Representation:** If you are involved in a legal dispute or criminal case, you have the right to be represented by a lawyer. If you cannot afford one, legal aid may be available for certain cases.
- **Right to a Fair Trial:** Everyone is entitled to a fair and impartial hearing within a reasonable time.
- **Right to Information:** You are entitled to receive information on your case and any charges or claims against you in a language you understand.



Steps to Take if You Have a Legal Issue

- **Seek Legal Advice:** Contact a lawyer if you have a legal issue or need to file a lawsuit. Lawyers can advise you on your rights, the laws that apply to your case, and the best way to proceed.
- **Check for Legal Aid:** If you cannot afford a lawyer, apply for legal aid. The court will appoint a lawyer to represent you in criminal or civil cases (if you meet the criteria for financial assistance).
- **File a Case in Court:** To file a case in court, your lawyer will prepare the necessary documents (e.g., writ of summons for civil cases, application for family court cases) and submit them to the appropriate court.
- **Court Fees:** Be prepared to pay court fees. For certain types of cases (like small claims), the fees are relatively low, but they can be higher in more complex matters.



Understanding the Court Process

- Step 1: Filing: The case begins when a lawyer files the necessary documents with the court.
- Step 2: Notification: The other party (defendant) will be formally notified and given time to respond.
- Step 3: Hearing: The court sets a hearing date. Be present and bring all relevant documentation or witnesses.
- Step 4: Judgment: After considering all evidence, the judge or magistrate will issue a judgment or ruling.
- Step 5: Appeal (if necessary): If you believe the judgment was incorrect, you can appeal to a higher court, but this must be done within a specific time frame.



Attending Court Hearings

- **Be On Time:** Always arrive early for your court hearing to avoid delays.
- **Dress Appropriately:** Dress in formal or smart-casual clothing out of respect for the court.
- **Bring Documentation:** Bring all necessary documents or evidence related to your case (contracts, police reports, medical records).
- **Remain Respectful:** Address the judge or magistrate with respect, listen carefully, and do not interrupt others during the hearing.



Where to Find Legal Help

- **Lawyers:** Contact a lawyer for legal advice and representation. You can find a lawyer through the Malta Chamber of Advocates or by personal referral.
- **Legal Aid Office:** If you cannot afford a lawyer, visit the Legal Aid Malta office to see if you qualify for assistance.



Mediation and Alternative Dispute Resolution (ADR)

- **Mediation:** For civil or family disputes, consider using mediation to resolve your issue without going to court. This is faster, less expensive, and less formal.
- **Mediation Services:** Mediation is offered by the court for family law cases (e.g., custody disputes), or you can seek private mediation for civil matters.
- **Advantages:** Mediation helps to avoid lengthy court proceedings, saving time and reducing costs.



Small Claims

- **Small Claims Tribunal:** If you have a claim for €5,000 or less (such as unpaid rent or minor debts), you can file a claim with the **Small Claims Tribunal** without the need for a lawyer.
- **Simple Process:** The Small Claims Tribunal offers a quicker, simpler, and less formal process to resolve minor financial disputes.
- **How to File:** Complete a claim form available at the courts or online, pay the fee, and attend the hearing. You will need to present your case with supporting documents.



Appealing a Decision

- In the Maltese legal system, an **appeal** refers to the legal process by which a party who is dissatisfied with a judgment or decision made by a lower court seeks to have that decision reviewed and potentially overturned by a higher court. The appeal process is a critical aspect of ensuring that the rights of individuals are protected and that justice is served.
- **Civil Appeals:** If you disagree with a judgment in a civil case, you can file an appeal with the **Court of Appeal**. Make sure to do so within the time limits specified by law.
- **Criminal Appeals:** In criminal cases, you have the right to appeal a conviction or sentence to a higher court. Your lawyer will advise you on the process and the likelihood of success.



Key Aspects of the Appeal Process in Malta

- **1. Grounds for Appeal**
- In Malta, parties may appeal on several grounds, including:
- **Errors of Law:** This includes misinterpretation or misapplication of the law by the lower court.
- **Errors of Fact:** This refers to situations where the lower court may have made incorrect findings about the facts of the case.
- **Procedural Errors:** Appeals can be based on failures to follow proper legal procedures that could have affected the outcome of the case.



Types of Appeals

- There are different types of appeals depending on the nature of the case:
- **Appeals in Civil Cases:**
 - Appeals can be made from judgments of the **Civil Court (First Hall)** and the **Court of Magistrates**. The appeals in civil matters are generally made to the **Court of Appeal** (Superior Jurisdiction).
- **Appeals in Criminal Cases:**
 - In criminal cases, defendants can appeal convictions and sentences handed down by the **Criminal Court** or the **Court of Magistrates** (in its criminal capacity). The appeal is made to the **Court of Criminal Appeal**.
- **Appeals in Constitutional Matters:**
 - Individuals may appeal decisions regarding constitutional issues to the **Constitutional Court**, which reviews cases related to breaches of fundamental rights and freedoms.



Procedure for Filing an Appeal

- The process for filing an appeal generally includes the following steps:
- **Record of Proceedings:** The lower court is required to prepare and transmit the record of proceedings (evidence, testimonies, and decisions) to the appellate court.
- **Filing of Appeal:** The appealing party (appellant) must file a Notice of Appeal within a specified time frame from the date of the judgment or decision being appealed. This document outlines the intention to appeal and the grounds for the appeal.
- **Notice of the Appeal:** The appeal filed by the appellant is served on the respondent
- **Written reply:** The opposing party (respondent) submit written arguments as a reply to the appeal filed by the appellant to the appellate court. These submissions include legal arguments and references to relevant laws or precedents.
- **Hearing:** The appellate court schedules a hearing where both parties can present their cases. During this stage, the judges may ask questions and seek clarifications on the legal points raised.
- **Decision:** Considering the arguments and evidence, the appellate court will issue its ruling. The decision may affirm, reverse, or modify the lower court's judgment. The appellate court may also order a retrial in some cases.



Outcomes of an Appeal

- The possible outcomes of an appeal include:
- **Affirmation of the Lower Court's Judgment:** The appellate court agrees with the original decision, and it stands as is.
- **Reversal of the Lower Court's Judgment:** The appellate court disagrees with the decision and overturns it, possibly resulting in a different outcome.
- **Modification of the Judgment:** The appellate court may change certain aspects of the original decision while leaving the rest intact.
- **Order for a Retrial:** In some instances, the appellate court may determine that a new trial is necessary due to procedural errors or other significant issues.



Finality of Appeals

- The decisions made by the **Court of Appeal** (in civil cases) and the **Court of Criminal Appeal** (in criminal cases) are typically final, subject to very limited circumstances where a further appeal can be made, such as cases involving significant constitutional issues.



Key Aspects of the Appeal Process in Malta cont'd

1. Notice of Appeal:

1. The appealing party (appellant) must file a **Notice of Appeal** within a specified time frame, typically 20 days from the date of the judgment or decision being appealed. This document outlines the intention to appeal and the grounds for the appeal.

2. Record of Proceedings:

1. The lower court is required to prepare and transmit the **record of proceedings** (evidence, testimonies, and decisions) to the appellate court.

3. Written / Oral Submissions:

1. Both the appellant and the opposing party (respondent) submit **written or oral arguments** (also known as briefs) to the appellate court. These submissions include legal arguments and references to relevant laws or precedents.

4. Hearing:

1. The appellate court schedules a hearing where both parties can present their cases. During this stage, the judges may ask questions and seek clarifications on the legal points raised.

5. Decision:

1. After considering the arguments and evidence, the appellate court will issue its ruling. The decision may affirm, reverse, or modify the lower court's judgment. The appellate court may also order a retrial in some cases.

• 4. Outcomes of an Appeal

- The possible outcomes of an appeal include:
- **Affirmation of the Lower Court's Judgment:** The appellate court agrees with the original decision, and it stands as is.



The two-tier system

- The **two-tier system** in Malta refers to the **division of courts** into two primary levels based on jurisdiction:
- **Inferior Courts and Superior Courts.** This system ensures that legal disputes are handled efficiently according to the seriousness of the case, providing a clear structure for the administration of justice.



Why is the Two-Tier System Important?

- The **two-tier system** provides several benefits to Malta's judicial structure:
- **Efficiency:** By dividing cases based on their seriousness, the system ensures that minor cases are handled quickly and do not overwhelm the Superior Courts.
- **Specialization:** Different courts and judges can focus on specific areas of law, whether it is criminal, civil, or constitutional, ensuring expertise in handling complex matters.
- **Access to Justice:** Citizens have the ability to appeal decisions through the superior courts, which provides a safeguard against judicial errors in the lower courts.
- **Fair Administration of Justice:** The system ensures that both minor and serious cases are dealt with in a manner that corresponds to their importance, preventing delays in justice for more significant cases.



Brief on the two-tier system

- In summary, Malta's **two-tier court system** is a fundamental part of the country's legal structure, promoting efficiency, accessibility, and fairness within the administration of justice.
- The two-tier court system in Malta is designed to provide a robust, efficient, and accessible legal framework. It ensures that cases are handled appropriately based on their complexity, facilitates the appeal process to safeguard individual rights, and reinforces the principles of the rule of law. This structure enhances public confidence in the judiciary and helps maintain a fair and just legal system. By dividing responsibilities between inferior and superior courts, Malta's legal system can effectively meet the diverse needs of its citizens.

