

# The Functions of the Court of Voluntary Jurisdiction

Minors, Contentious and Non-Contentious cases

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Undergraduate Certificate in Notarial Law  
Fundamentals for Office Assistants

# A minor under the Civil Code

- A minor is a person of either sex who has not yet attained the age of eighteen years. (Art 157 of the Civil Code).



# A minor under the Criminal Code

- Minors under fourteen years of age - Article 35 (1)
  - Without prejudice to the powers of the Minister under the Children and Young Persons (Care Orders) Act and any other law which from time to time provides for measures of protection, help, care and education of minor persons who would have been identified as persons who have committed crimes or contraventions, a minor under fourteen years of age shall be exempt from criminal responsibility for any act or omission.
- Minors under sixteen years of age acting without mischievous discretion - Article 37
  - (1) The minor under sixteen years of age shall also be exempt from criminal responsibility for any act or omission done without any mischievous discretion.
  - (2) In the case where the act or omission is committed by a minor who is aged between fourteen to sixteen years of age with mischievous discretion and in the case where the minor is aged between sixteen and eighteen years, the applicable penalty shall be decreased by one or two degrees.
- Defilement of persons under sixteen (16) years of age - Article 203
  - (1) Whosoever, by lewd acts, defiles a person who has not completed the age of sixteen years, shall, on conviction, be liable to imprisonment for a term from four to eight years
  - ...

# A Minor under the Criminal Code

- Participation in sexual activities with persons under the age of sixteen. - Article 204C
  - (1) Whosoever takes part in sexual activities with a person who has not completed the age of sixteen years shall, on conviction, be liable to imprisonment for a term from five to ten years ...
- Ill-treatment or neglect of child under sixteen years – Article 247A(1)
  - Whosoever, having the responsibility of any child under sixteen years of age, by means of persistent acts of commission or omission ill-treats the child or causes or allows the ill-treatment by similar means of the child shall, unless the fact constitutes a more serious offence under any other provision of this Code, be liable on conviction to imprisonment for a term not exceeding two years.
- When it comes to consent - "appropriate consent" means –
  - (a) in relation to a person who has attained the age of eighteen (18) years, the consent of that person;
  - (b) in relation to a person who has not attained the age of eighteen (18) years but has attained the age of fourteen (14) years, the consent of that person and the consent of his parent or guardian;
  - (c) in relation to a person who has not attained the age of fourteen (14) years, the consent of his parent or guardian.



# Summary of a minor under the Maltese Criminal Law

- Under Maltese law, the general rule is that minors under 14 years of age are exempt from criminal responsibility for any act or omission. The presumption thus follows that a minor under the age of 14 years is *doli incapax*.
- Children aged between 14 years of age to 16 years can be charged with a crime. However, they may be exempt from criminal responsibility if the courts determine that the offence was not committed with malice or, as the law refers to it, mischievous discretion.
- Minors who are older than 16 years of age but younger than 18 years benefit from a reduction in punishment of one or two degrees. The court will not inquire as to whether the minor acted with mischievous discretion or not. Thus, in determining the guilt or otherwise of an offender within this age bracket the court shall not take into consideration the young age of the offender. The young age will only be considered when it comes to handing down punishment.



# Interpret the procedure to be followed when a person whose consent is required is a minor

- When the consent of a minor (someone under the age of 18 (under Civil Law)) is required for a legal act or decision—such as in adoption, marriage, or certain civil matters—specific procedures must be followed to ensure the minor’s rights and interests are protected.
- Minors generally lack the full legal capacity to give valid consent, so Maltese law provides for certain mechanisms to safeguard them in such cases.
- When the consent of a minor is required in Maltese law, the process is carefully controlled by legal and judicial safeguards to ensure the minor’s welfare. Parents or guardians typically provide consent, but the court may intervene to ensure that the consent aligns with the best interests of the minor. If necessary, the court can appoint an independent guardian to represent the minor, especially in cases of potential conflict of interest. These procedures reflect a commitment to protecting vulnerable individuals and ensuring fair outcomes.



# Court's Role in Approving or Overseeing Consent

- If the consent of a minor is required in a significant legal matter (e.g., in adoption or in the administration of an inheritance), the **Court of Voluntary Jurisdiction** may be involved to provide oversight and ensure that the consent is given appropriately and aligns with the minor's best interests.
- In adoption cases, for example, the Maltese court assesses the suitability of the adoption arrangement to ensure that the minor's welfare is prioritized.
- The court may directly consider the minor's views, depending on their age and maturity level.



# Seeking the Minor's Viewpoint

- Maltese law increasingly respects the **views and opinions of minors** in matters that affect them directly, particularly if the minor is old enough to understand the implications of the decision.
- In certain cases, the court may allow the minor to express their wishes, which may be taken into account by the parents, guardians, or the court itself. For example, in adoption proceedings, if the minor is of a certain age and maturity, the court might consider the minor's opinion on the adoption, although the final decision is made by the court.





# Parental Consent or Consent from Guardians

- In most cases, the minor's **parents** or **legal guardians** must give consent on behalf of the minor.
  - For instance, if a minor wishes to enter into marriage, the consent of their parents or guardians is required under the Maltese Civil Code (Chapter 16 of the Laws of Malta).
- If the parents are unavailable, deceased, or unable to provide consent (for instance, if there is a conflict of interest), the court can appoint a **guardian *ad litem*** ("*for the purposes of the legal action only*") to act in the minor's **best interests**.



# Appointing a Curator or Guardian *ad Litem*

- If there is a conflict of interest between the minor and their legal guardians, or if the minor's interests need independent representation, the court may appoint a **curator** or **guardian ad litem**. This person is responsible for acting solely in the minor's best interests and can provide consent or make decisions on behalf of the minor as authorized by the court.
- This is often the case in **inheritance matters**, where a minor is entitled to a share of the estate, and decisions need to be made regarding the administration or management of that inheritance.



# Court Intervention for Exceptional Cases

- If a minor's legal guardians refuse to provide consent, or if there are other complications (such as parental disagreement), the court may be asked to **intervene** and make a decision based on the minor's welfare.
- For instance, if a minor needs medical treatment that requires consent, and the parents disagree on the issue, the court can be asked to decide in the minor's **best interests**.



# Legal Representation

- In cases involving complex decisions or disputes, a minor may be given legal representation (usually through a lawyer or a guardian ad litem) to ensure their interests are properly advocated in court proceedings.
- This representation allows the minor's perspective to be included in the process and provides additional safeguards to ensure that the minor's rights are upheld.



# Documentation and Formalities

- When the consent involves property or financial matters, the court may require formal documentation to be filed on behalf of the minor, detailing the purpose of the consent and how it aligns with the minor's **best interests**.
- All actions, decisions, and consents involving minors are typically recorded, and any authorization by the court is documented to establish a clear legal record.



# When are minors heard? Where are they heard?

- Minors are heard in certain legal proceedings where their rights or interests are directly affected, particularly in matters related to **family law** (e.g., adoption, custody, and guardianship) and **child protection**. The courts have developed guidelines to determine when and where minors can be heard, with a focus on balancing the need for their input with protections for their welfare and emotional well-being.
- Maltese law generally considers the views of minors who are old enough and mature enough to understand the nature and implications of the proceedings. Although there is no strict age threshold, minors around the age of 14 and older are often given the opportunity to express their views, though younger children may also be heard if they are deemed capable of contributing meaningfully.
- Minors are heard when their input is relevant to proceedings affecting their welfare and when they are mature enough to provide meaningful insight. They are heard in private, child-friendly settings within the Family Court, often with the assistance of professionals to ensure their comfort and protection. Ultimately, the court respects the minor's voice while ensuring that decisions align with their best interests.



# Family Law Matters

- In **custody disputes**, the Family Court may hear a minor's views, especially if both parents are seeking custody, or if there are disputes regarding access arrangements. The court considers the child's preferences alongside other factors that impact their **best interests**.
- In **adoption cases**, minors who are of a certain age or maturity are often given the chance to express their feelings about the adoption process. The Family Court takes the minor's opinion into account, although the final decision rests with the judge.



# Protection and Welfare Cases and Other Civil Matters Involving Minors

- In cases involving **child protection**, such as allegations of abuse or neglect, the minor may be heard to help the court assess their well-being and determine appropriate protective measures.
- In proceedings involving inheritance or the management of property where a minor is a beneficiary, the court may hear the minor's views if their understanding of the issues is sufficient and relevant to the case.





# Where Are Minors Heard?

- **Judge's Chambers (Camera di Consiglio/Sigrieta):**
  - In Maltese law, minors are often heard in the judge's private chambers (known as the *Camera di Consiglio/Sigrieta*) rather than in open court. This private setting provides a safer, less intimidating environment for the minor and ensures confidentiality.
  - The judge's chambers offer a more informal and comfortable setting where the minor can speak openly without the presence of a large audience or intimidating formalities. This is especially common in family law cases.
- **With Support of Professionals:**
  - In sensitive cases, minors may be interviewed with the assistance of professionals such as psychologists, social workers, or child advocates. These professionals can help facilitate communication, ensuring that the minor feels comfortable and that their views are accurately conveyed to the court.
  - Sometimes, minors may be heard in a separate room, with their views relayed to the court by a trained professional or through video link, if face-to-face communication with the judge is deemed too stressful.
- **Family Court Facilities:**
  - The Maltese Family Court has facilities designed to accommodate minors in a child-friendly environment. In some cases, minors may be heard in a specially designated room within the Family Court, equipped to provide a welcoming atmosphere that encourages open dialogue.



# When are minors heard in criminal cases?

- **As Victims:** If a minor is the victim of a crime, especially in cases involving abuse, assault, or exploitation, they may be called to give evidence to help establish the facts of the case.
  - For instance, in cases of sexual abuse or domestic violence, a minor's testimony may be essential for the prosecution.
- **As Witnesses:** Minors who witness a crime may be asked to testify if their account is critical to understanding the events or identifying the perpetrator.
  - This could include situations where the minor was present during the commission of a crime (e.g., in a robbery or a family dispute).
- **As Accused Persons:** When a minor is accused of a crime, they are entitled to be heard as part of the proceedings in the Juvenile Court (for minors under 16) or, in more serious cases, in other criminal courts. Special procedures and protections are in place to ensure that minors are treated fairly and are not unduly pressured or intimidated.
- **Maltese law provides comprehensive safeguards to protect minors involved in criminal cases, whether as victims, witnesses, or accused individuals. The court takes steps to ensure that minors are heard in a way that minimizes emotional stress and upholds their rights. By providing closed sessions, video-link testimony, support from professionals, and specialized juvenile court procedures, the Maltese legal system aims to shield minors from the harshness of criminal proceedings while ensuring their voices are appropriately represented.**



# How are minors heard in criminal cases?

- In Malta, minors who are victims or witnesses in criminal cases are typically interviewed in a child-friendly environment and are not directly exposed to the court or the accused person. The goal is to minimize trauma and avoid the intimidation that may come with traditional court settings.
- **Use of Video-Link Testimonies:** Minors may give testimony via video link, especially if they are victims of sensitive crimes like sexual abuse. This allows them to provide evidence without being physically present in the courtroom, protecting them from the psychological impact of facing the accused or a formal court setting.
- **Judge's Chambers or Child-Friendly Rooms:** In cases involving very young or vulnerable minors, testimony may be taken in a private room (such as the judge's chambers or a designated child-friendly room) rather than in open court. This setting is less intimidating and allows the minor to feel more comfortable when sharing their experiences.
- **Interview by Trained Professionals:** Minors, especially those who are victims or witnesses in sensitive cases, are often interviewed by professionals trained in child psychology or child protection. These professionals may record the minor's testimony or prepare a report, which can then be used as evidence in court. The interview is conducted with care to avoid leading questions and to ensure that the minor's responses are genuine.
- **Presence of a Guardian or Child Advocate:** Minors are typically accompanied by a guardian, parent, or child advocate (guardian ad litem) who can support them during the process and protect their interests. This is particularly important for young children or minors in vulnerable situations.



# Limitations and Safeguards

- **Child's Best Interests:** While the views of minors are important, they are not always determinative. The court ultimately makes decisions based on the child's best interests, which may not align with the minor's expressed preferences. The court balances the minor's views with other factors, such as safety, stability, and welfare.
- **Protection from Harmful Exposure:** Maltese law is careful to protect minors from unnecessary exposure to court proceedings, especially if the case involves sensitive issues such as abuse or conflict between parents. The court may choose not to hear a minor if it believes doing so would be detrimental to their mental or emotional health.
- **Confidentiality:** The views expressed by minors in family court or protection cases are kept confidential. Proceedings involving minors are generally not open to the public, and the court may issue protective orders to ensure the child's privacy.



# Protections for Minors in Criminal Cases

- **Closed Court Sessions:**
  - For cases involving minors, the court often holds closed sessions to protect the minor's privacy. Members of the public and media may be excluded from the courtroom to prevent the minor's identity from being exposed.
- **Prohibition of Direct Cross-Examination:**
  - Maltese law generally prevents the direct cross-examination of minors by the accused. Instead, the judge or a child protection expert may act as an intermediary to avoid putting undue stress on the minor. The defense can suggest questions, but they are typically asked in a sensitive manner by a third party.
- **Anonymity and Confidentiality:**
  - Minors involved in criminal cases are usually granted anonymity, especially if they are victims. Media coverage of cases involving minors is restricted to protect their identity, and their names are not disclosed to the public.
- **Use of Pre-Recorded Testimonies:**
  - In some cases, the testimony of a minor may be pre-recorded to spare them from appearing in court multiple times. This allows the court to consider the evidence without requiring the minor to relive potentially traumatic experiences.



# Minors as Accused Persons

- **Juvenile Court Procedures:**
  - If a minor under 16 years of age is accused of committing a crime, the case is typically heard in Malta's Juvenile Court, which operates under a more rehabilitative approach than adult criminal courts. The focus is on the minor's best interests, with an emphasis on reform and rehabilitation.
- **Special Measures for Minors Aged 16 to 18:**
  - Minors aged 16 to 18 who are accused of serious crimes may face trial in adult courts, but they still receive certain protections. The court considers their age and background when determining sentences or penalties, often favoring rehabilitative or correctional approaches over purely punitive measures.
- **Legal Representation:**
  - Minors accused of crimes have the right to legal representation, and they are often accompanied by a parent or legal guardian during the proceedings. Legal counsel is provided to ensure that they understand the proceedings and that their rights are fully protected.



# Are minors always heard in court?

- No, minors are not always heard in court proceedings in Malta. Whether a minor is heard depends on the type of case, the minor's age and maturity, and whether their testimony or opinion is essential to the case. Maltese law prioritizes the best interests and well-being of minors, and certain protective measures are in place to avoid subjecting them to the potential stress of court proceedings unless it is truly necessary.
- While minors are heard in certain cases in Maltese court proceedings, they are not always heard directly. The court carefully assesses the minor's age, maturity, and the necessity of their testimony to determine whether involving them is in their best interests. Protective measures, alternative representation, and professional reports are used to ensure that minors' views are respected without exposing them to unnecessary harm or stress.



# When Minors Are Likely to Be Heard?

- **Family Law Matters:**
  - In cases involving **custody, guardianship, adoption, or parental disputes**, the court may decide to hear the minor's opinion if they are old enough and mature enough to express their views. For example, in custody cases, the court may want to understand the minor's preferences and feelings about living arrangements.
  - In **adoption cases**, older minors may be heard to understand their feelings about the adoption, particularly if they have already formed bonds with their biological family or foster parents.
- **Child Protection Cases:**
  - In cases involving allegations of **abuse or neglect**, minors may be heard to provide details that help the court assess their safety and welfare. However, they are often heard in private, with support from professionals, to minimize trauma.
- **Criminal Cases:**
  - If a minor is a **victim or witness** in a criminal case, they may need to provide testimony, especially if their account is critical to understanding the events of the case. However, special procedures, such as video-link testimony or pre-recorded statements, are often used to protect the minor from the formal court setting.
  - Minors accused of crimes may also be heard, especially in the Juvenile Court. Their involvement is generally focused on rehabilitation rather than punishment.





# When Minors May Not Be Heard?

- **Young Age or Lack of Maturity:**
  - If the minor is very young or lacks the maturity to understand the court proceedings, they may not be heard directly. Instead, the court may rely on reports or assessments from child psychologists, social workers, or other experts who can convey the minor's needs and best interests.
- **Cases Where a Minor's Testimony Is Not Necessary:**
  - In cases where the minor's views are not essential to resolving the legal matter, the court may avoid involving them to protect them from unnecessary stress. For example, in certain administrative or property-related matters, the minor's opinion may not be relevant.
- **If Hearing the Minor May Cause Harm:**
  - If the court believes that involving the minor could have a negative impact on their mental or emotional well-being, it may decide against hearing them. This is common in cases involving sensitive family disputes or traumatic incidents, where the minor's participation may cause more harm than benefit.



# Contentious and non-contentious cases. Their difference.

- The distinction between **contentious** and **non-contentious** cases lies in the nature of the legal proceedings and the type of conflict or issue being addressed.
- In summary:
  - **Contentious cases** involve conflict and dispute between parties, requiring a decision to resolve the issue.
  - **Non-contentious cases** are more administrative, requiring court approval or oversight without conflict between the parties involved.



# Contentious Cases

- **Definition:** Contentious cases involve disputes between two or more parties, where there is a clear conflict or disagreement that needs to be resolved by the court.
- **Nature:** These cases typically require judicial intervention to settle a legal dispute, where the parties involved are in opposition to each other.
- **Outcome:** A judge or court decides the outcome based on the facts and law, usually through a hearing or trial, after evaluating the arguments of both sides.



# Contentious Cases

- **Civil disputes:** Including breach of contracts, claims for damages, or torts (e.g., personal injury cases).
  - **Family law cases:** Divorce, annulment of marriage, child custody disputes, alimony, and inheritance disputes.
  - **Property disputes:** Disagreements over ownership, possession, or lease agreements.
  - **Criminal cases:** Prosecution of crimes such as theft, assault, fraud, or any criminal activity that involves the state against an individual or a group.
  - **Labour disputes:** Cases between employers and employees, such as wrongful dismissal, compensation claims, or disputes over employment contracts.
  - **Appeals:** Parties may appeal a decision from a lower court if they believe the judgment is unjust.
- **Procedure:**
  - **Filing a claim:** One party initiates the case by filing a formal complaint or claim (e.g., a writ of summons in civil matters).
  - **Court hearings:** Both parties are required to present evidence and arguments, and the judge or court will listen to both sides before making a decision.
  - **Judgment:** The court delivers a judgment based on the facts and applicable law. The judgment is binding, and failure to comply can result in enforcement measures



# Non-Contentious Cases

- **Definition:** Non-contentious cases, also called **voluntary jurisdiction cases**, do not involve disputes between parties but instead focus on legal matters that require court approval or supervision without an active conflict.
- **Nature:** These cases are typically administrative or procedural, where the court's role is to oversee and validate certain actions or decisions that do not involve opposing parties.
- **Outcome:** The court's function is to ensure that the law is followed and to issue the necessary orders or approvals. There is no opposition or adversarial element in these cases.



# Non-Contentious Cases

- **Guardianship and Curatorship:** The court appoints guardians or curators for individuals who are unable to manage their own affairs due to minority (being underage), mental incapacity, or other reasons. The court's role is to ensure that the guardian or curator acts in the best interest of the person under their care.
- **Adoption:** The Court of Voluntary Jurisdiction approves adoptions in Malta. This includes validating the legal processes, confirming eligibility, and ensuring the welfare of the child. It is a critical step in any adoption, as the court must ensure all legal and ethical requirements are met before granting approval.
- **Wills and Estates (Probate):** The court supervises the probate process, including opening and executing wills, particularly when there is no dispute over the will. In cases of intestacy (where someone dies without a will), the court ensures that the estate is distributed in accordance with Maltese law.
- **Banns of Marriage:** The court supervises the publication of banns of marriage, ensuring that the requirements for marriage are met, such as ensuring there are no legal impediments to the marriage.
- **Affidavits:** The court may be involved in overseeing the affidavit process for various legal declarations, such as confirming the identity of individuals or authenticating documents.
- **Minor Contracts and Judicial Supervision:**
  - The Court of Voluntary Jurisdiction supervises minor contracts, particularly those involving minors or individuals under guardianship, to ensure that their rights are protected.
  - Incorporating Associations and Foundations: The court plays a role in approving the establishment or modifications to associations and foundations. This includes ensuring they meet legal requirements before they are formally recognized.



# Procedure of Non-Contentious Cases

- **Application:** In non-contentious matters, the interested party applies to the Court of Voluntary Jurisdiction by filing a petition or request (e.g., an application for the appointment of a guardian or an adoption request).
- **No Adversarial Process:** Unlike contentious cases, non-contentious cases do not involve disputes between parties. Instead, the court's role is to ensure the legality and propriety of the request.
- **Judgment or Decision:** The court issues an order or decree once it is satisfied that the law has been followed and no issues have arisen. This might include confirming the validity of a will, appointing a guardian, or issuing an adoption order.



# Procedure of Contentious Cases

- The process for dealing with contentious cases involves several key stages, including the filing of applications, exchanges of written submissions, hearings, examination of evidence, and judgment. This structured procedure ensures that each party has a fair opportunity to present their case and that the matter is resolved in line with due process.





# Filing the Application

- The party initiating the case, known as the plaintiff or applicant, files an application (or "plaint") in court. This document includes details about the parties involved, a clear statement of the facts, the legal basis for the claim, and the specific relief or remedy being sought.
- The application is filed in the appropriate court depending on the nature and value of the claim (e.g., Civil Court, Family Court, Commercial Court).
- The plaint must be verified by oath, and once filed, the court issues a notice to the defendant(s).



# Service of the Application

- The application is formally served on the defendant(s), who must be given notice of the proceedings. Service is conducted through judicial means to ensure the defendant is properly notified of the claims being made.
- If the defendant cannot be located, alternative methods of service (such as edicts or public notices) may be employed in certain cases.



# Filing of the Reply

- Once served, the defendant is required to file a reply within a specified time period, usually 20 days. This reply includes their defense against the claim, as well as any counterclaims or arguments.
- The reply may include preliminary pleas, such as objections to the jurisdiction of the court or requests to dismiss the case on procedural grounds.
- If the defendant fails to reply within the set time, the court may proceed to judgment by default, ruling in favor of the plaintiff.



# Preliminary Proceedings and Directions

- Once both parties have submitted their initial statements, the court may hold a preliminary hearing to set directions for the case. At this stage, the court may address preliminary issues, procedural objections, or requests for interim relief.
- In more complex cases, the court may issue a “case management” order to outline the schedule for the proceedings, set deadlines, and address any specific procedural requirements.
- If the defendant has raised any preliminary pleas, such as a challenge to the court's jurisdiction, these are usually addressed at this stage.



# Collection and Exchange of Evidence

- Both parties must disclose the evidence they intend to use, which may include documents, witness lists, expert reports, and other relevant information.
- The court may request the submission of specific documents or evidence, or issue orders to protect certain types of information, such as confidential business data.
- The court may also appoint experts if technical knowledge is required, or allow each party to bring their own expert witnesses, subject to cross-examination.



# Hearing of the Case (Oral Proceedings)

- Contentious cases generally proceed to an oral hearing where both parties present their arguments before a judge or magistrate. The hearing includes:
  - **Opening Statements:** Each party has the opportunity to make an opening statement outlining their case.
  - **Examination of Witnesses:** Witnesses are examined under oath. They may be subject to cross-examination by the opposing party. This process allows each side to test the credibility and relevance of the other's evidence.
  - **Presentation of Documents and Expert Reports:** Documents and expert opinions are submitted to the court as evidence and may be questioned by both parties.



# Final Submissions

- Once all evidence is presented, both parties may be asked to make final submissions. This is an opportunity to summarize their arguments, highlight key points from the evidence, and argue why the court should decide in their favor.
- Final submissions may be made in writing or orally, depending on the judge's preference and the case complexity.



# Judgment

- The judge or magistrate deliberates on the evidence and arguments presented, and issues a judgment. This may take several weeks or months, depending on the complexity of the case and the court's schedule.
- The judgment includes the court's findings of fact, legal reasoning, and the decision on the case, including any remedies awarded to the plaintiff or the dismissal of claims.





# Appeal

- No appeal shall lie from any decree of the Court of Voluntary jurisdiction; but it shall be lawful for any party, who deems himself aggrieved, to bring an action before the Civil Court, First Hall, for the necessary order. (Article 35 of the COCP)



# Additional Considerations in Contentious Cases

- **Mediation and Settlement:** While contentious cases are adversarial, the Maltese legal system encourages settlement through mediation or negotiation whenever possible. Some cases are resolved through alternative dispute resolution mechanisms before reaching judgment.
- **Interim Measures and Injunctions:** In certain cases, a party may request interim measures, such as an injunction, to protect their interests pending the outcome of the case. This may include orders preventing the disposal of assets or maintaining the status quo.
- **Legal Representation:** Contentious cases are usually handled by lawyers, as the procedures and legal arguments can be complex. Lawyers help the parties navigate the procedural requirements, prepare evidence, and present arguments effectively.
- **Role of Court Experts:** In cases that involve technical issues, such as medical malpractice or complex financial matters, the court may appoint experts to assist in assessing the facts. These experts provide impartial advice to the court, helping to clarify complex issues.



# Execution of the Judgment

- If the plaintiff wins the case, they may seek enforcement of the judgment. This can involve various legal mechanisms, such as garnishment of wages, seizure of assets, or other forms of enforcement to collect any damages awarded.
- The defendant may be required to comply with specific court orders, such as transferring property, paying damages, or ceasing particular actions.



# Design strategies to navigate non-contentious cases within the court

- Navigating non-contentious cases within the Maltese court system, particularly in the **Court of Voluntary Jurisdiction**, requires strategic preparation and a clear understanding of procedural requirements. Non-contentious cases generally involve matters where there is no dispute between parties, such as **adoption, guardianship, curatorship, incapacitation, tutorship, interdiction, and estate administration.**



# Infer the significance and implications of non-contentious cases within the court's purview.

- Non-contentious cases, within a court's purview, generally refer to legal matters that do not involve a dispute between parties. These cases are typically procedural, administrative, or related to legal actions that are agreed upon by all parties involved.
- Efficient Court Functioning: Non-contentious cases allow courts to handle routine legal matters swiftly, freeing up time and resources for contentious or more complex disputes. This helps maintain overall court efficiency.
- Legal Certainty and Order: These cases often deal with the formalization of legal procedures, such as validating a will or granting a marriage certificate. This creates clarity and stability in legal systems, ensuring that legally significant actions are recognized without the need for extensive litigation.
- Public Trust: By resolving non-contentious cases efficiently, courts contribute to maintaining the public's trust in the legal system. These cases show that the court can handle straightforward matters without unnecessary delay or conflict.
- Cost-Effective: Non-contentious cases tend to be less costly than contested cases because they usually require fewer resources in terms of time, lawyer fees, or court interventions.



# Implications of Non-Contentious Cases:

- 1. Access to Justice:** By resolving straightforward legal matters efficiently, courts ensure that individuals and businesses can gain access to legal processes without being burdened by lengthy litigation. For example, a person seeking a grant of probate for an uncontested will is able to do so quickly, which is essential for the smooth transition of property.
- 2. Court Resources:** Non-contentious cases make efficient use of court resources, allowing more time for handling contentious matters. However, there is a risk that courts may become too focused on these cases, leaving less room for more complex legal disputes that require greater judicial scrutiny.
- 3. Limited Judicial Engagement:** The lack of dispute in non-contentious cases may limit the level of judicial involvement in shaping legal precedents. These cases are often settled based on existing law or established norms, meaning there is less opportunity for the court to make new interpretations or rulings that could influence the development of law.
- 4. Encouraging Agreement:** Non-contentious cases may reflect broader societal trends toward settling disputes amicably or through formalized agreements, which can help reduce the strain on the judicial system.



# Exploring the distinctive characteristics and the legal principles that govern non-contentious cases

- Non-contentious cases are legal matters in which there is no dispute or disagreement between the parties involved.
- These cases are characterized by agreement or procedural actions that do not require judicial intervention to resolve conflicts.





# Distinctive Characteristics of Non-Contentious Cases:

- 1. Lack of Dispute:** The most defining feature of non-contentious cases is the absence of a disagreement between the parties. All parties typically consent to the outcome and do not challenge the legal process or decision. This is in contrast to contentious cases, where there is a conflict that requires adjudication by a judge.
- 2. Administrative and Procedural Nature:** Many non-contentious cases are administrative in nature, such as the validation of wills, appointment of guardians, or the registration of certain legal documents. These matters often involve following established procedures rather than resolving disputes.
- 3. Efficiency and Speed:** Non-contentious cases tend to be processed more quickly than contentious cases, as they do not involve extensive litigation, legal arguments, or trials. The court's role is often limited to reviewing documents or confirming that legal requirements have been met.
- 4. Lack of Public Adversity:** In contentious cases, the proceedings are typically open and adversarial, with opposing parties presenting their cases before a judge. In non-contentious cases, however, the process is more private, and the court generally acts as a formality to affirm agreements or procedural compliance.
- 5. Predictability of Outcomes:** Since the parties in non-contentious cases have already agreed to the matter at hand, the outcome is usually predetermined, and judicial intervention is limited to confirming compliance with the law or legal formalities.





# Legal Principles Governing Non-Contentious Cases

- 1. Consent of the Parties:** Non-contentious cases are based on the consent of the parties involved. For example, in an uncontested divorce, both parties agree to the terms of the divorce and do not require judicial intervention to resolve disputes. The court's role is to confirm that the agreement complies with the law.
- 2. Principle of Formality:** Non-contentious cases are often subject to formal legal requirements, such as proper documentation or procedural steps. For instance, in probate matters, a valid will must be presented for the court's review, and the court's role is to confirm the authenticity of the document and the formal process rather than decide a contested issue.
- 3. Rule of Law:** Non-contentious cases still operate under the same principles of law as contentious cases, including compliance with legal standards, rights, and duties. The court must ensure that all legal requirements are met before granting relief, even though there is no dispute over the substance of the case.
- 4. Public Policy and Protection of Rights:** In some non-contentious cases, the court ensures that public policy considerations or the protection of individual rights are upheld. For example, when approving a guardianship application or the adoption of a child, the court is ensuring that the process complies with legal protections and safeguards for vulnerable individuals.
- 5. Judicial Discretion and Limited Intervention:** While judges have discretion in some areas of non-contentious cases, their role is typically confined to ensuring that legal procedures are followed and that the parties' actions comply with the law. They do not engage in the merits of a dispute, as there is no dispute in these cases.
- 6. Efficiency and Expediency:** Legal principles of efficiency guide non-contentious cases. Courts aim to minimize delays and costs by expediting these cases. As these cases generally do not involve contested issues, the goal is to provide a swift legal remedy or confirmation.



# Simplify complex legal concepts and principles related to the court of voluntary jurisdiction.

## How Does the Court Work?

- The Court of Voluntary Jurisdiction is a part of the Maltese judiciary that handles legal matters where there is no disagreement or conflict between the parties. It helps to formalize legal procedures in areas like family law, inheritance, and business law.
- **No Adversarial Process:** Unlike in regular courts, where there are two opposing parties, the Court of Voluntary Jurisdiction does not have a dispute to resolve. It's more about verifying that the proper legal steps are followed.
- **Limited Judicial Intervention:** The judge in the Court of Voluntary Jurisdiction primarily oversees the process, checking that all documents and actions comply with the law. There is little need for legal arguments or presentations of evidence.



# Enabling a clearer understanding of the court's jurisdiction

- The Court of Voluntary Jurisdiction performs the following core functions within its jurisdiction:
- **Confirming Legal Actions:** It ensures that any voluntary actions or agreements, such as those in wills, adoption, or guardianship, comply with the law.
- **Approving Formalities:** The court acts to verify that all legal procedures and formalities have been followed in areas such as inheritance distribution, name changes, and guardianship appointments.
- **Granting Authorizations:** In cases like adoption or guardianship, the court has the authority to approve or appoint individuals to take on specific legal responsibilities.
- **Issuing Declarations:** The court may issue legal declarations to confirm the status of individuals or legal entities, such as affirming the validity of a marriage or the confirmation of an inheritance.



# Legal Framework and Authority

- The Court of Voluntary Jurisdiction operates under specific provisions of Maltese law, such as the **Civil Code of Malta** and **other applicable laws**. The court's authority to approve various legal actions comes from these laws, which govern areas like probate, family law, and guardianship.
- Although the court's role is typically administrative, it is crucial in ensuring that individuals and families can access the legal system efficiently. Its jurisdiction reflects an aspect of the legal system focused on preventing disputes and providing clarity through formalization.



# The contribution to the administration of justice in safeguarding rights and interests

- The **Court of Voluntary Jurisdiction in Malta** plays a crucial role in the **administration of justice** by safeguarding **rights and interests**, particularly in matters where there is no dispute between the parties involved. While it does not deal with contentious legal battles, its contribution to the legal system is significant in ensuring that individuals' rights are protected and that legal formalities are respected.
- **1. Protecting the Rights of Vulnerable Individuals**
- **2. Ensuring Legal Certainty and Protection of Property Rights**
- **3. Providing Access to Justice and Reducing Court Congestion**
- **4. Upholding Family and Social Rights**
- **5. Fostering Legal Compliance and Transparency**
- **6. Enabling the Protection of Civil Rights**
- **7. Contributing to Legal Clarity and Stability**



# A Cornerstone of Justice in Malta

- The Court of Voluntary Jurisdiction significantly contributes to the **administration of justice** in Malta by focusing on **safeguarding rights** and **ensuring legal compliance**. It plays a crucial role in protecting the rights of vulnerable individuals, such as children and incapacitated adults, by validating essential legal processes like adoption and guardianship. Furthermore, it guarantees the **legal certainty** of property rights through probate proceedings and ensures that family matters, such as uncontested divorces, are resolved in a timely and legally sound manner.
- By handling non-contentious cases efficiently, the court alleviates the burden on other courts, making the judicial system more accessible and streamlined. Its contribution ensures that the Maltese legal system functions effectively, offering individuals access to justice and safeguarding their legal rights and interests in various aspects of life.





Questions  
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