



Document of Recommendations

compiled by

**Għ.S.L. sub-committee
for justice reform**

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Contents

Composition and terms of reference of the subcommittee.....	2
Composition.....	2
Terms of Reference.....	2
Proposals for the Judiciary.....	3
Appointment of Judiciary.....	3
Specialisation of the Judiciary.....	3
Expeditious Court Cases.....	4
Remote appearances.....	4
Mediation.....	4
Small Claims Tribunal.....	5
Collective Proceedings Act.....	5
Recommendations: The modernisation of Court Operations in Malta	6
Opportunities for university law students in court.....	7
Internships and Placements.....	7
College.....	7
Note of Conclusion.....	8

Composition and terms of reference of the subcommittee

Composition

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Terms of Reference

The recommendations of the subcommittee should reflect the following areas;

- Appointment of judiciary
- Expeditious court cases
- Modernisation of court operations
- Opportunities for university law students in court

Proposals for the Judiciary

Appointment of Judiciary

Proposal for a special course / masters degree or PhD to be offered via the University of Malta whereby students who wish to enter the judiciary will be specially trained and prepared for such sector. This system is already in force in a number of EU countries, amongst them France, Spain and Germany.

The judiciary should be appointed by a special board set up for the purpose of selecting competent and able candidates.

Inter alia the board should be composed of:

- Retired members of the judiciary;
- Lawyer with an experience of 15 years in court practise
- Member of the Academics

The aim of the board is to scrupulously and in a rigid manner, interview and examine candidates in order to establish the competences and capabilities of each candidate.

Specialisation of the Judiciary

Candidates should be chosen according to the area of speciality and in accordance to the demands of the court's operational needs. Thus one would ensure that specialised areas, such as criminal cases, civil cases, commercial cases, maritime cases and separation cases amongst others would be adjudicated by judges specialised in those areas.

Expeditious Court Cases

Remote appearances

The *World Justice Report*, 2011 edition, states that should a court make use of remote appearances, it would be diminishing the costs on legal representation and also processing time in legal cases.

Although remote appearances are used in Malta when cases involve minors, the need is felt to extend this technique to other instances. Necessary changes to the civil law and criminal law sphere are required in order to accommodate this process.

Furthermore, specific guidelines are to be drawn up in order to ascertain that the application of remote appearances takes place in accordance to certain rules of standard procedure, thus avoiding malpractice. These standard rules will also ensure certainty and consistency for lawyers and 'parties'.

As a result of better use of technology, the court system shall be improved: ensuring expeditious proceedings and reduction in costs.

Mediation

Although this process is deemed as a voluntary means of resolving a dispute, legislative amendments should favour this mechanism as a means of resolution prior to exhausting court procedures. Judges should constantly promote this alternative. Higher court and administrative fees would help to achieve more preference for Mediation rather than taking up lengthy court procedures. This would undoubtedly make the system more efficient to solve cases at inception in a more flexible manner, less lengthy and in a less costly manner.

More importance should be given to the role of mediator in the legal sphere. Lawyers and students should be encouraged to take up professional training (follow Master's degree in Mediation) in order to increase the number of Mediators in the Maltese legal system.

Furthermore, Mediation should be encouraged more in areas of employment and industrial disputes, personal injury and negligence claims, small claims and debt claims.

There is also the possibility to adopt the American concept of Victim -Offender Mediation in the sphere of Criminal Law- especially with regards to petty crimes.

Small Claims Tribunal

The capping should be increased up to Euros 5,000. This would reduce the amount of caseload heard before the Inferior Courts.

In order to ensure more expediency within the small claims tribunal, set time frames must be specified in the legislation.

Collective Proceedings Act

The Collective Proceedings Act should be amended to cover newer areas such as environmental, cultural and heritage concern. Class actions should not be limited but extended to include further areas, in order to avoid having a repetition of cases with similar facts involving same party or parties.

The modernisation of Court Operations in Malta

- Electronic presentation of evidence enables the embodiment of all relevant material in a single, coherent product.
- EPE technology provides for the presentation of simple ordinary material and for more complex evidence. This system provides 3D geospatial information with enhanced audio and video technology. This system allows a case to be presented quickly with immediate access to all relevant information, thereby saving time and money from the public purse.
- This committee is proposing the introduction of an online database which would provide space for the storage of past court cases, decisions and delivered sentences, and current cases, which would render the research and reference even more accessible.
- Such system shall include an online portal programmed on the lines of *e-cvria*, which shall enable the first stages of any case to take place online, thus reducing the manual work that is currently undertaken by the court while also rendering the judicial process more efficient. An online system of such calibre shall be sufficient to meet the requirements of its users and therefore shall be operated by employees who are trained in and knowledgeable with regards to its workings.
- There should also be a system of decentralisation of Maltese Courts- establishing district tribunals. Dividing Malta into territorial divisions of smaller regions, the number of which shall be decided upon the discretion of the legislator. Every district or region shall be subject to the rules of procedure applicable to the Maltese Courts of Justice. The jurisdiction of these regional courts shall extend to small commercial and civil cases, traffic infractions and probation order revocations.
- A process of decentralisation requires an influx of human resources added to technological equipment of the courts for these to be able to provide the optimal service to its users. These technological developments thus become essential for the maintenance of communication between the regional courts and the central court of Malta.

Opportunities for university law students in court

Internships and Placements

Law students are to be given the opportunity to participate in the law courts through the system of 'judicial practice' in the Courts of Malta and Gozo. This form of legal practise should take place against remuneration such as student worker schemes offered by the government or else the number of hours conducted during the practice would be redeemable to ECTS credits.

College

A college for students interested in specializing in the professions of judges and magistrates should be set up. This would greatly help students to follow their ambition and specialise in a particular area of judiciary thus ensuring highly specialized trained judges.

Note of Conclusion

The Gh.S.L subcommittee for Justice Reform was set up with the purpose of establishing a number of recommendations aimed at addressing four important areas namely: Expeditious Court cases, Modernisation of Court Operations, Appointment of Judiciary and last but not least Opportunities and development for Law Students.

This subcommittee was appointed to work under the auspices of the office of the President of Għaqda Studenti tal-Ligi (GhSL). Indeed this office is committed to continue issuing position papers and recommendations in several areas of Justice.

I would like to congratulate the members of the sub-committee for their sterling work: this reflects the commitment and input Law students are willing to invest in order to join in the discussion of Justice Reform.

Our commitment to contribute in society remains alive more than ever.

Clive Gerada

Għaqda Studenti tal-Ligi (Gh.S.L) President

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