



## **CONSTITUTIONAL COURT**

### **JUDGES**

**THE HON. CHIEF JUSTICE MARK CHETCUTI  
THE HON. MR JUSTICE GIANNINO CARUANA DEMAJO  
THE HON. MR JUSTICE ANTHONY ELLUL**

**Sitting of Monday, 2<sup>nd</sup> December 2024**

**Number: 39**

**Application Number: 529/2022/1 JVC**

**Carmelo Turu Spiteri**

**v.**

**Court Services Agency,**

**Eunice Grech Fiorini, Chief Executive Officer for the Court Services  
Agency,**

**Etienne Scicluna, Court Services Agency Civil Registrar Director,**

**Annalise Spiteri, Assistant Civil Registrar,**

**Rose Maria Vella, Assistant Civil Registrar Supervisor,**

**The Ministry of Justice, hereinafter “Ministry”;**

**Jonathan Attard Esq., the Minister of Justice, hereinafter “Minister”;**

**Christopher Soler, Esq., the State Advocate,**

**Victoria Buttigieg, Esq., Attorney General.**

## **The Court:**

1. This is a judgment addressing the preliminary plea of nullity of the appeal filed by applicant on the 24th of May 2024 from a judgment delivered by the First Hall Civil Court in its Constitutional Jurisdiction on the 30th April 2024, wherein the First Court *inter alia* held that since it did not find that any of applicant's Constitutional and Convention Fundamental Rights as expressed in his application had been breached, held that applicant's claims are not justified and therefore dismissed applicant's application *in toto* and rejected all the claims put forward by applicant. The First Court also found applicant to be in contempt of Court and imposed a fine of €500.

2. From the acts of the case it transpires that:

2.1 Applicant instituted constitutional proceedings on the 4<sup>th</sup> October 2022 alleging a violation of his rights as protected by both by Maltese Legislation and the Maltese Constitution, Regional Conventions and Charters, and International Covenants and Declarations on Fundamental, Civil and Political Rights with regards to *inter alia* his right to self-representation before the local courts and for being precluded from signing his own pleadings without having first obtained the signature of a lawyer, even if such signature was a "firma di favore."

2.2 Defendants raised a number of preliminary pleas, namely the nullity of the proceedings which were drafted in the English Language and not in Maltese; the nullity of the said proceedings since the acts were not signed by a lawyer as the concept of a firma di favore is not intended to circumvent article 178 of Chapter 12 of the Laws of Malta. Defendant also contended that it is not clear whether the Minister, the Attorney General and the State Advocate were also being sued personally. Other respondents also claimed that they have no locus standi in the proceedings, especially in their personal capacity. On the merits, defendants contended that applicant's claims sought to be dismissed since the procedure being attacked by applicant is one in the public interest and not in breach of any fundamental human rights.

2.3 The First Hall Civil Court in its Constitutional Jurisdiction delivered judgment on the 30<sup>th</sup> of April 2024 and held that:

*"...in view of all the considerations above, since it does not result to it that any of applicant's Constitutional, Fundamental Rights or International Covenant rights as listed in his application have been breached, finds therefore that his claims are not justified and it shall proceed to dismiss applicant's application in toto."*

2.4 By means of an application dated 24<sup>th</sup> May 2024 applicant lodged an appeal from the judgment of the First Court Civil Court in its Constitutional Jurisdiction requested: (i) the revocation and cancellation of the judgment of the First Court dated 30<sup>th</sup> of April 2024, (ii) the overturning of the sanction and fine imposed against

appellant, (iii) that the case be sent before another member of the judiciary and/or for this Court to exercise its discretion to rule on the merits and (iv) any other relief which this Court might deem to be fair, just and proper.

2.5 In their respective replies<sup>1</sup> to the appeal application filed by applicant, Defendants invoked the nullity of the appeal on the ground that said appeal was filed after the lapse of the twenty-day time period imposed by Subsidiary Legislation 12.09.

2.6 The Court took cognisance of all the applications and notes subsequently filed by applicant in the acts of the appeal *de quo* and heard the oral submissions made by the parties during the sitting of the 4<sup>th</sup> of November 2024.

2.7 This judgment relates solely to the plea regarding the validity or otherwise of the appeal application lodged by appellant.

### **Preliminary Plea regarding the nullity of the appeal:**

3. In their reply to the appeal *de quo*, defendants invoked the nullity of the appeal, since the said appeal, filed on the 24<sup>th</sup> of May 2024 had

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<sup>1</sup> Vide Reply of Ministry of Justice, Jonathan Attard in his personal capacity and as Minister for Justice, Christopher Soler, in his personal capacity and as State Advocate and Victoria Buttigieg in her personal capacity and as Attorney General dated 6th June 2024 at fol 567 et seqq., of the acts and reply submitted by the Court Services Agency, Eunice Grech Fiorini, CEO, Etienne Scicluna, Analise Spiteri and Rose Maria Vella dated 12th June 2024 at fol 572 et seqq., of the acts.

been filed *fuori termine*. Defendants further contended that the procedure regulating appeals stipulates that appeals from judgments delivered by the First Hall Civil Court in its Constitutional Jurisdiction are to be filed within twenty (20) days.

4. The Court appointed the appeal for hearing on the 4<sup>th</sup> of November 2024, and during said sitting, ordered the parties to the case to make oral submissions on the plea raised by defendants on the validity of the appeal.

5. Upon examination of the records of the case, it transpires that the First Hall Civil Court in its Constitutional Jurisdiction, delivered its judgment on the 30<sup>th</sup> of April 2024. Appellant then filed his appeal on the 24<sup>th</sup> of May 2024. The applicable procedural rules relative to the nature of these proceedings are encompassed in Subsidiary Legislation 12.09, particularly Rule 4(2), which provides that:

***(2)The application of appeal shall be made within twenty days from the date of the decision appealed from, and the respondent may file a written reply within eight working days from the date of service***

6. The Court concurs with the Defendants; appellant had till the 20<sup>th</sup> of May 2024 to file his appeal, and thus, the appeal was indeed filed *fuori termine*. The Court observes that appellant, in effect, filed his appeal four (4) days after the lapse of the time-frame envisaged in Rule 4(2) of

Subsidiary Legislation 12.09. On this subject matter, the Court has on multiple occasions affirmed that:

***“... it-terminu għal preżentata tar-rikors tal-appell huwa wieħed legali u għalhekk ta’ ordni pubbliku. B’hekk m’huwiex possibbli li dan ir-rikors jiġi sannat, u l-preżentata fuori termine tiegħu tagħmlu null għall-finijiet u l-effetti kollha tal-Liġi. (Vide L-Avukat Cedric Mifsud noe vs Awtorita tat-Transport f’ Malta Rik.Nru.:19/2019/1 deciz mill-Qorti Kostituzzjonali nhar is-26 ta’ Jannar 2022)<sup>2</sup>***

7. In his oral submissions appellant contended that he was misguided by his defence lawyer with regards to the mandatory requisite time-period within which the appeal ought to have been lodged. The Court reiterates that irrespective of any plausible justification, jurisprudence on the matter has always been consistent: the legal time frames prescribed by law for the filing of judicial acts are of public order and cannot be overlooked, not even with the consent of the opposite parties. Adherence to said time-limits ensure the proper administration of justice and compliance with the principle of legal certainty and those concerned must expect these rules to be applied. It is therefore incumbent on the interested parties to be diligent in the defence of their interests.<sup>3</sup> In fact, our Courts have always professed that the non-observance of the legal time frames may also be invoked by the Courts *ex-officio*.

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<sup>2</sup> Translation of citation: “The time-frame for the lodging of an appeal is a legal time-frame and therefore of public order. Thus, it is not possible for this application to be salvaged, and its tardy filing renders said appeal null and void at law.”

<sup>3</sup> Vide **Muscat vs Malta** (App. No. 2419/10), **Nakoc vs The former Yugoslav Republic of Macedonia** decided on the 24th October 2002 and **Teuschler vs Germany** decided on the 4th of October 2001 by the European Court of Human Rights.

8. Therefore, the preliminary plea proffered by defendant invoking the nullity of the appeal filed by Appellant is to be upheld.

**Decide:**

For these reasons the Court declares appellant's appeal to have been filed *fuori termine*, and consequently declares said appeal to be null and void. The Court shall therefore abstain from taking further cognisance of said appeal.

All judicial costs are at the charge of the appellant.

Mark Chetcuti  
Chief Justice

Giannino Caruana Demajo  
Judge

Anthony Ellul  
Judge

Deputy Registrar  
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