

Diploma in Law

Lecture 2: Court Structure & Competences, Judicial Acts & Special Proceedings

Lecturer: Dr. Désirée Attard

Date: Wednesday 21st January 2026



**Diploma in Law
(Malta)**

Today's Lecture:

- Civil Courts, Inferior & Superior Courts, Tribunals, Boards, and their competences
- An overview of the laws relating to judicial letters (including article 166A judicial letters) and judicial protests
- What is a sworn application, sworn reply, and counterclaim
- The contents and procedures in a sworn application sworn reply and counterclaim
- What are special summary proceedings and when are they resorted to
- What are jactitation suits and when are they resorted to
- What is an appeal, cross-appeal, and re-trial
- The legal requirements of an appeal, cross- appeal and retrial



The Courts of Malta

- Generally (**but not always**) regulated by the COCP in terms of procedure
- Created by law and by order of the President of Malta
- The language of the courts is **Maltese**, but English may be used where one or more parties are English-speaking, and the Maltese-speaking parties consent to it
- Cases are always tried in public - unless the court determines that there is good cause for hearing said case behind closed doors
- Judgments are always delivered in public, and their operative part shall always be read out

The Registries

- The Civil Courts and Tribunals Registry
- The Criminal Courts and Tribunals Registry
- The Gozo Courts and Tribunals

Responsible for the filing and service of all judicial acts, execution of executive titles, warrants, judicial sales by auction.

When appearing before courts, advocates and legal procurators are **officers of the court**.



The Civil Courts

COCF Art. 2:

2.(1) The courts of justice of civil jurisdiction for Malta are either **superior or inferior**. Each court may be divided into different sections.

(2) Unless otherwise established by law, the President of Malta may by Order establish the sections of each Court, and designate the categories of cases assigned to each section; and may by subsequent Order amend, revoke or substitute such Order.

(3) Saving any other provision of law, the courts of justice of civil jurisdiction are exclusively vested with the judicial authority in civil matters within the jurisdiction of the tribunals of Malta.



The Superior Courts

- The Civil Court
- The Court of Appeal
- The Constitutional Court

The Chief Justice and judges sit in the superior courts.

One judge sits in each court (except for the CoA in appeals from the Civil Court)

The jurisdiction of the superior courts is general for the entirety of the Maltese territory.



The Civil Court

- **First Hall / First Hall Constitutional Jurisdiction**

All cases of civil / commercial nature go before the First Hall, barring those within the CoM's jurisdiction. It is also the first stop for cases seeking redress for human rights violations.

- **Voluntary Jurisdiction (previously known as Second Hall)**

This section addresses pleas regarding tutorship, interdiction, incapacitation, adoptions, opening of successions and the appointment of executors.

- **Family Section**

All cases concerning family matters go to the Family section, including *inter alia*: divorce / separation, care and custody, child abduction

- **Commercial Section**

Cases relating to the Companies Act are assigned to the Commercial Section.

- **Asset Recovery Section**

Determines cases relating to the recovery of proceeds of crime by the State or the confiscation of assets not based on convictions.

The Court of Appeal

Hears and determines:

- All appeals from judgments of the Civil Court (any section), These are heard by three judges
- Appeals from the CoM / administrative tribunals / boards are heard by one judge



The Constitutional Court

- **Jurisdiction 1:** Original jurisdiction to decide on matters relating to membership in the House of Representatives
- **Jurisdiction 2:** Appellate in cases involving human rights violations, the interpretation of the Constitution, and the validity of laws.

Constituted and empowered directly by the Constitution.
Three judges preside over this Court.



The Inferior Courts

- The Court of Magistrates (Malta) for the Island of Malta
- The Court of Magistrates (Gozo) for the Island of Gozo

One Magistrate presides over the inferior court.

The CoM has both civil & criminal jurisdiction.

In civil matters, it can hear claims exceeding €5,000 but not exceeding €15,000. (***this is set to change soon - SCT***).

Irrespective of value, cases involving questions of ownership of immovables or burdens over properties, including occupation and eviction, do **not** fall within the CoM's jurisdiction.

The Tribunals

- The Local Tribunals
- Small Claims Tribunal (& European Small Claims)
- Administrative Review Tribunal
- Industrial Tribunal
- Consumer Claims Tribunal
- Arbitrator & Patents Tribunal
- Commercial Sanctions Tribunal
- Information & Data Protection Appeals Tribunal
- Environment and Planning Review Tribunal
- Financial Services Tribunal
- International Protection Appeals Tribunal
- Partition of Inheritances Tribunal
- Police Licenses Appeals Tribunal
- Prison Appeals Tribunal

Established by *ad hoc* legislation to address particular spheres



The Local Tribunals

- 4 across Malta & Gozo: Qormi, Zejtun, St Paul's Bay, San Gwann, I-Gharb
- Deal with depenalised offences
- Presided by Commissioners for Justice
- May issue penalties in accordance with the offence / seizing of objects / suspension of licenses
- Appeals go before the Court of Magistrates
- Cases usually heard in 1 sitting



The Small Claims Tribunal

- Established by the Small Claims Tribunal Act
- Presided by an adjudicator
- Deals with money claims not exceeding €5,000 - **this is set to change soon to €10k**
- Money claims only: no cases relating to ownership / tenancy, even if the claim is within its jurisdiction
- Emphasises efficiency: as much as possible, evidence is presented with the claim & reply, case is heard summarily, and ideally within 1 sitting.
- Appeals go before the CoA



The Industrial Tribunal

- Established by the Employment & Industrial Relations Act
- Presided by a Chairperson and 2 other members
- Deals with all industrial / employment related cases
- More flexible approach to procedure - allowed to set its rules
- No court fees
- 4 month prescriptive period



The Boards

- Copyright
- Rural Leases
- Rent Regulation
- Special Commissioners
- Duty on Documents and Transfers
- Controlled Companies
- Land Arbitration

Established by *ad hoc* legislation to address particular spheres





**Diploma in Law
(Malta)**


CAMILLERI PREZIOSI
ADVOCATES

Judicial Acts - Atti Uffiċjali

These are any documents filed in Court (through the Registry), and can include:

- Judicial letters / replies
- Judicial protests / counter-protests
- Applications / replies
- Notes
- Submissions
- Warrants
- Schedules of deposit



Common elements to all acts

- Printed / Typed / In ink
 - Clear & easily legible, with no blank spaces, interlinear words, abbreviations / erasures
 - Without corrections / alterations / additions
 - Sums expressed in words & figures
 - Submitted in sufficient copies for all parties & signed by 1 person
-
- The forum before which it is being filed
 - Details of the Parties involved (names, surnames, ID, capacity, addresses)
 - Reference to the application / case no. (if any)
 - The substantive pleading



The notification of acts

- Delivered to the person by hand (by a court marshal)
- A copy is left at their place of residence / business with a family member (14+) or his mandatory
- At registered office with the legal representative if party is a legal person
- Through the State Advocate if the party is not in Malta

4 attempts are made:

1. Registered Post
2. Court Marshall
3. Court Marshall after legal hours
4. Publication in gov. gazette and 1 daily newspaper and affixing a copy at residence / place of business, police station and local council. Deemed valid after the 3rd day



The Judicial Letter - Ittra Uffiċjali

Used as the first step to call upon someone to do something. e.g. calling on a debtor to pay any sum due.

Imp. function: interruption of prescription. Generally deemed effective on the day they are successfully notified unless prescription period is almost lapsed, in which case it will be effective on date of filing if notified within 8 days.

Very wide usage - whenever the law mentions *an intimation or declaration by means of a judicial act* without specifying its form, this is permissible.

No obligation to reply, no timeframe within which to reply. Reply is through another judicial letter - *ittra responsiva*



The Judicial Letter - Ittra Uffiċjali

Needs to detail:

- Cause of claim
- Reasons why claim should be upheld
- Statement of facts in its support
- Demand



Fil-Prim'Awla tal-Qorti Ċivili

Illum,

Lil: (K.I.) –

Permezz tal-preżenti ittra, il-mittenti sinjuri

Illi din hija informazzjoni kollha magħrufa minnek, stante illi l-mittenti kemm-il darba interpellawk dwar il-htieġa

Illi din is-sitwazzjoni hija bi preġudizzju kbir għad-drittijiet tal-mittenti, inkluż id-dritt għat-tgawdija

Jagħmlu referenza għall-

Għaldaqstant, permezz tal-preżenti ittra uffiċjali, il-mittenti qed jinterpellawk sabiex fi żmien ġingħa min-notifika ta' din l-ittra inti:-

Illi kif taf tajjeb, l

Judicial Letter 166A (COCP)

The main debt recovery tool in Malta (via courts)

Debt has to be liquid, certain, and due and not exceeding €25,000

Judicial letter needs to be sworn and needs the following phrase:

This judicial letter is being sent under the provisions of Article 166A of Chapter 12 of the Laws of Malta, and if you do not reply within thirty (30) days of service, this judicial letter shall constitute an executive title. For this reason, it is in your interest to consult a lawyer or a legal procurator.

Once notified, debtor:

- either contests within 30 days (in which case the case is then heard)
- does not contest / contests late (166A becomes executive title → garnishee order)



Judicial Letter 166A (COCP)

Needs to detail:

- Cause of claim
- Reasons why claim should be upheld
- Statement of facts in its support
- Confirmation on oath

Letter must be served within 6 months, otherwise a fresh letter needs to be filed
Cannot be notified through publication & affixation



Court of Magistrates (Malta)

This judicial letter is being sent under the provisions of Article 166A of Chapter 12 of the Laws of Malta, and if you do not reply within thirty (30) days of service, this judicial letter shall constitute an executive title. For this reason, it is in your interest to consult a lawyer or a legal procurator.

Today, the _____ of November 2025

To: _____ (K.I. _____) for and on behalf of
_____, Ltd, _____, C

By means of the present judicial letter, Mr _____ holder of Maltese _____, who on oath confirms its contents, calls upon you to pay the sum of **fifteen thousand, two hundred and forty euro (€15,240)**, which sum is certain, liquidated, and due.

This sum represents the sum due to the sender in line with the Private Agreement signed by both parties on _____ (attached and marked as **DOC A**).

This procedure is being adopted after you were requested previously to perform the payment and remained in default. For the above-mentioned reasons, this claim should be accepted.

If within thirty (30) days from service you fail to pay the amount due, and/or you do not present a note in the acts of the same judicial letter in accordance with the Law, this judicial letter shall be rendered executive, in which case, the issue of warrants will be requested by the sender in accordance with the Law.

This judicial letter is also being sent for the purposes of prescription in line with Article 2138 of Chapter 16 of the Laws of Malta.

For your guidance. With costs and interest where due.

Av. Désirée Attard
ABB Legal, Aurora ~~Ctr~~ Bldg C
Triq il-Witja, Hal Tarxien

P.L. Nicholette Aquilina

Sender:

Notification:



Judicial Letter 166A (COCP)

Replying to a 166A:

- within 30 days
- by means of a note in the acts of the judicial letter
- does not need a lawyer / legal procurator
- Creditor must then open a case

No reply to a 166A / late reply:

- 166A becomes an executive title
- Creditor can proceed to enforce it (garnishee)

Executive title can be contested within 20 days from service

- if he proves he was not duly notified
- if he proves 166A did not contain the necessary procedural elements

The Judicial Protest - Protest Ġudizzjarju

Used to place a party in bad faith - **dolo, moro, et culpa**, as a warning to do / stop doing something. e.g. A construction company is not exercising due diligence and is / is potentially harming your property - you call upon them to immediately stop and hold them responsible if they do not.

Imp. function: interruption of prescription. Generally deemed effective on the day they are successfully notified unless prescription period is almost lapsed, in which case it will be effective on date of filing if notified within 8 days.

No obligation to reply, no timeframe within which to reply. Reply is through a counter-protest - *kontro-protest*



Fin-nuqqas li tottempora ruhek ma' dan, il-mittenti jirriżervaw id-dritt li jipproċedu ulterjorment fil-konfront tiegħek mingħajr ebda pre-avviż ieħor.

Fil-frattemp, bil-preżenti ittra uffiċjali, il-mittenti qegħdin minn issa stess ipoġġuk fi stat ta' dolo, moro, u culpa għall-finijiet u effetti kollha tal-liġi, u qed iżżommuk responsabbli għad-danni kollha li huma qed isofru u/jew għad jistgħu isofru minhabba l-aġir negligenti u abbużiv tiegħek.

Tant sabiex tiġi formalment notifikat għall-finijiet u effetti kollha tal-liġi u tal-Artiklu 2128 tal-Kap. 16 tal-Liġijiet ta' Malta.

Tant sabiex tagħraf timxi u tevita aktar spejjeż u inkwiet bla bżonn.

Bl-ispejjeż u bl-interessi skont il-liġi sad-data tar-rimedju effettiv.

Av. Désirée Attard
desiree@abb-legal.com

P.L. Nicholette Aquilina

The Application - Ir-Rikors

Can be sworn on oath (rikors ġuramentat) / not - **be mindful of the legal requirements, it is the law that dictates when an oath is required.** Superior courts usually require this.

Primarily used to request something from a court

Main Application: used to file a case in court. Sworn applications are always deemed to institute a case. Not always the case.

Other applications: filed within the acts of a case to request anything from the court relating to that case - e.g. a deferral, or request to decide on a preliminary matter



The Sworn Application - Rikors Ġuramentat

Must contain:

- Statement clearly and explicitly explaining the subject of the cause in separate numbered paragraphs
- Declaration that plaintiff (respondent / konvenut / intimat) knows these facts personally
- Basis of the request
- The request/s, numbered
- accompanying documentation, names of witnesses and proof he intends to establish through them
- The following notice:

Whosoever is in receipt of this sworn application in his regard shall file a sworn reply within twenty (20) days from the date of service thereof, which is the date of receipt. Should no written sworn reply be filed in terms of the law within the prescribed time, the Court shall proceed to adjudicate the matter according to law. It is for this reason in the interest of whosoever receives this sworn application to consult an advocate without delay that he may make his submissions during the hearing of the case.

Immediate effect: Court orders the plaintiff to appear on a date and time to tell his side.
Preliminary written proceedings (reply) begin, unless urgency of case requires otherwise.



FIL-PRIM' AWLA TAL-QORTI ĊIVILI

Min jirċievi dan ir-rikors mahluf kontra tiegħu għandu jippreżenta r-risposta mahlufa tiegħu fi żmien għoxrin (20) jum mid-data tan-notifika, cioè' minn meta jirċeviha. Jekk ma tigix ippreżentata r-risposta mahlufa bil-miktub kif trid il-ligi saż-żmien imsemmi, il-Qorti tghaddi biex tagħti deċiżjoni skond il-ligi. Għalhekk huwa fl-interess ta' min jirċievi dan ir-rikors mahluf li jkellem avukat bla dewmien sabiex il-Qorti tisma' x'għandu jgħid fil-kawża.

Prez: € 20.00
 DReg: € 20.00
 ZReg: € 12.00
 2not: € 2.40

 Hlas: € 54.40

kif rappreżentati lokalment minn
 mandatarju speċjali tagħhom l-Avukat Dottor

vs

Id-Direttur tar-Reġistru Pubbliku

Rikors ġuramentat tal-Avukat Dottor I
 mandatarju speċjali tal-assenti

Ji, fil-kwalita' tiegħu bhala

Jesponi bir-rispett u bil-ġurament tiegħu jikkonferma:

1. Illi r-rikorrent



Replying to an application - Risposta (ġuramentata)

When replying to a sworn application, reply must also be sworn.
General timeframe is of 20 days from date of services - but different tribunals have different periods (e.g. Appeal = 30 days). In cases of urgency, the defendant has to reply before the 1st hearing.

If plaintiff intends to admit to the claim - a note is filed

Reply must contain:

- Preliminary pleas, if any
- Clear & correct statement on the merits
- All the facts concerning the claim, denying, admitting, or explaining the circumstances in numbered paragraphs
- Statement that these facts are known by him personally
- Accompanying documentation
- List of witnesses & evidence he intends to establish through them

A note on the List of Witnesses

Courts **do not generally allow** witnesses that were not originally listed!

NB Exceptions:

- Need for particular witness arises after the filing of the application
- Opposing party consents
- Court deems it in the interest of justice to hear that witness



When no reply is filed - Contumacy - Kontumaċja

Where no reply is filed / filed late, the defendant shall be deemed to be in a state of contumacy **unless** they successfully give a reasonable excuse for their default.

Contumacy (meaning silence) means that the defendant cannot:

- cross-examine witnesses,
- present witnesses,
- present evidence,
- file pleas

They can only be present, receive copies of evidence produced, and make short submissions at the end of the proceedings, before the case is deferred for judgment. The right to appeal remains available.

The plaintiff however cannot rest on this 'silence' - the case must be proved to the court's satisfaction.

When no reply is filed - Contumacy - Kontumaċja

Contumacy only exists in relation to the failure to file a sworn reply to a sworn application within the appropriate period.

Technically contumacy cannot be declared before the Inferior Courts / Tribunals / Boards - but this has happened before, so adherence to legal periods is paramount.

E.g. *John Baldacchino et vs Bajada New Energy Ltd (Court of Appeal, Inferior) 8/3/2019:*

“Għall-Qorti hu evidenti li sabiex konvenut jopponi talba quddiem it-Tribunal għat-Talbiet Żgħar, għandu obbligu jippreżenta twegiba fit-terminu kontemplat f’regolament 4 tal-L.S. 380.01. Il-fatt li f’Kap. 380 m’hemmx dispożizzjoni simili għal dik tal-kontumaċja li hemm fil-KAp. 12 ma jsaħħaħx l-argument tal-konvenuta.”

The Counter claim - Kontro-Talba

If the defendant also has a claim against the plaintiff, he may file a counter claim together with the reply

Defendant's claim has to be connected to original claim, i.e.:

- it arises from same fact / contract / title
- it aims to set off the debt claimed by the plaintiff or bar in any other manner the plaintiff's action or preclude its effects

Claim & Counter claim (talba u kontro-talba) are then dealt with together and 1 judgment is given for both.

For the counter claim, the same procedural rules as for the application apply. Essentially the counter claim has the same effect and status at law as an application instituting a case (e.g. in replying).

If the original claim is discontinued, the counter claim may still proceed.





Diploma in Law (Malta)



LERI PRI
VOCAT

Special proceedings - Summary proceedings - Giljottina

A request to the Court to give its judgment without proceeding to trial

- Actions before the Superior Courts
- May be requested in the sworn application
- ONLY if demand is for:

Recovery of a debt which is certain, liquid, due

Eviction of a person with / without claim for rent / damages

Eviction of an operator / lessee / occupant from vessels / aircrafts



Special proceedings - Summary proceedings - Giljottina

Procedure is **paramount** to success of summary proceedings. Sworn application must contain:

- Statement outlining subject of the cause in separate numbered paragraphs
- Declaration that plaintiff knows these facts personally
- Basis of claim/s
- Claim/s, numbered
- Declaration that the plaintiff believes there is no defence
- The original notice for sworn applications, crossed out or with a warning added
- Accompanying documentation
- Affidavit of person confirming facts of the claim



Fil-Prim'Awla tal-Qorti Ċivili

Min jirċievi dan ir-rikors maħluf kontra tiegħu għandu jippreżenta r-risposta maħlufa tiegħu fi żmien għoxrin (20) jum mid-data tan-notifika, cioè minn meta jirċeviha. Jekk ma tiġix ippreżentata r-risposta maħlufa bil-miktub kif trid il-liġi saż-żmien imsemmi, il-Qorti tgħaddi biex tagħti d-deċiżjoni skont il-liġi.

Għalhekk huwa fl-interess ta' min jirċievi dan ir-rikors maħluf li jkellem avukat bla dewmien sabiex il-Qorti tisma' x'għandu xi jgħid fil-kawża.

Twissija

B'ordni ai termini tal-artikolu 167(2) tal-Kap. 12 tal-Liġijiet ta' Malta, għandek tidher quddiem il-Qorti hawn fuq indikata fil-jum u fil-hin li jiġu mogħtija lilek.

MS (K.I. XX) u

I aħwa S (K.I. XX)

vs

AM (K.I. XX) u

NRD (K.I. XX)

Rikors Ġuramentat ta' M u I aħwa S;

Special proceedings - Summary proceedings - Giljottina

Defendant, once notified, must appear by no later than 30 days from date of service.

If they appear:

- Can contest on grounds of irregularity / inapplicability
- Presents prima facie evidence
- By means of note

If in default / fail to contest:

- Court proceeds to give judgment

If contested successfully:

- defendant given 20 days to defend the action by means of sworn reply



Special proceedings - Jacitation - Jattanza

Gives a remedy to persons whose rights have been molested by a claim. Jacitation forces the person asserting the claim to substantiate it within 3 months (max). If not, they are deemed to perpetual silence - not allowing future proceedings.

Prescribed by 1 year

Filed by means of a sworn application forcing the jacitator (original claimant) to bring his claim to trial.

E.g. a person files a judicial protest claiming they have a right of passage (servitude) over a field. The owner of the field can contest this by means of a reply but can also file a jacitation suit forcing the claimant to prove that claim, or else forever cease from making such claims.



Min jircevi dan ir-rikors mahluf kontra tieghu ghandu jipprezenta r-risposta mahlufa tieghu fi zmien ghoxrin (20) jum mid-data tan-notifika, cioe' min meta jirceviha. Jekk ma tigix ipprezentata r-risposta mahlufa bil-miktub kif trid il-Ligi saz-zmien imsemmi, il-Qorti tghaddi biex tghati d-decizjoni skond il-Ligi.

Ghalhekk huwa fl-interess ta' min jircevi dan ir-rikors mahluf li jkellem avukar bla dewmien sabiex il-Qorti tisma' x' ghandu xi jghid fil-kawza.

CD [K. I. Nru 123456(M)]

Vs

AB [K. I. Nru 654376(M)]

Rikors guramentat ta' AB

Jesponi bir-rispett u bil-gurament jikkonferma ILLI:

1. AB, detentur tal-Karta ta' l-Identita' Nru [] irceva protest gudizzjarju fl- 20 ta' April 2007 minghand CD, detentur tal-Karta ta' l-

2. AB huwa propjetarju ta' l-ghalqa fil-limiti ta' u CD ghandu propjeta' lit miss ma' ta' l-esponenti min - naha tal-Punent maghrufa bhala , kif jidher mill-pjanta hawn annessa, ezibita u mmarkata bhala "Dok A" ;
3. Min mindu rceva dan il-protest, CD ma regghax avvicina lil AB dwar dan il-jedd u ghalhekk AB jixtieq jehles min din il-pretensjoni darba ghal dejjem, u ghalhekk qed jghamel din il-kawza.

Ghaldaqstant, AB, waqt li jghamel referenza ghas-suespost, jitlob lil din l-Onorabbli Qorti biex tghati zmien, mhux aktar minn tlett xhur, lil konvenut biex igib din il-pretensjoni quddiem il-Qorti, u jekk ikun hemm dan in-nuqqas. Tikkundannah li qatt izjed ma jagixxi ghal pretensjoni fuq l-imsemmija.

Bl-ispejjez kontra l-konvenut

Special proceedings - Jacitation - Jattanza

On service, the Jacitator can:

- Declare he has no claim

Court moves to decide on costs and impose perpetual silence

If no such declaration is made:

- Jacitator has 3 months to present claim
- Case decided on merits



The Appeal

Generally filed within 30 days of judgment - **but be mindful of different periods for different matters**

Initiated by means of an application which can request:

- Reversal
- Variation
- Reversal, annulment, or variation of a decree

Of the entire / any part of the judgment

Application must contain:

- Reference to the claim
- Reference to judgment & elements complained of
- Detailed reasons for appeal - Aggravji - appellant is aggrieved
- Request (reversal, variation, annulment)



The Appeal

Appeals may be filed by:

- any party against all / any one of the other parties
- by any interested party

Grounds for appeal:

- depend on the relevant law.
- Variations re. grounds / timeframe / contents apply

Limitations:

- No appeal from Court of Appeal
- No appeal from Court of Voluntary Jurisdiction
- No appeal from judgment based on admission / renunciation of right to appeal
- No appeal on claims not exceeding €465.87 with no point of law
- More in specific laws.



The Appeal

Appeal from partial judgment:

- Filed only after final judgment unless permitted by court
- Permission can be requested verbally immediately once partial judgment is given
- appeal period runs immediately from when partial judgment is read out in court

Effect of appeal:

- Stays execution of judgment until it is decided upon



The Appeal

Replying to an appeal application:

- 30 days to file reply
- Must give reasons why appeal is to be dismissed
- NO contumacy in appeal stage - reply not compulsory

Appeals proceedings:

- no new evidence / witnesses **unless:**
 - said evidence could not be obtained before
 - court is satisfied of its necessity
 - opponents consent
 - appellant was not aware of it / could not produce it before



The Cross-Appeal - Appell Incidentali

This is an appeal from heads (sections) of the judgment which are not appealed from in the original appeal.

May be filed by any party as long as that party has not already filed an appeal.

Parties intending to use this procedure must declare it in their reply to the original appeal.

Considered a stand-alone appeal.

Served on parties who are given 30 days to reply.



New trial / Retrial - Ritrattazzjoni

Art. 811 COCP gives very limited circumstances where a party may request that the case is heard again:

- for cases decided by an appellate court or CCFH in its Constitutional jurisdiction

Grounds:

- judgment was obtained by fraud
- sworn application not properly served, and party never appeared
- party was under legal disability & this was not raised
- incompetent court (no jurisdiction) & this was not raised
- wrong application of the law
- ultra petita (judgment on matters not requested)
- extra petita (judgment in excess of demand)
- conflict with previous judgment on same subject matter / parties
- conflict within judgment
- judgment based on false evidence
- judgment resulting from procedural defects

New trial / Retrial - Ritrazzjoni

Request for retrial to be made to the court which gave the judgment.

Same judiciary may preside.

Sworn application if before first instance

Application if before second instance

Must contain:

- Heads of judgment complained of
- Grounds for retrial, referring to articles within COCP
- Facts giving rise to said grounds
- If based on wrong application, correct application of law must be identified

Period to file request if of 3 months, commencement stage varies depending on legal grounds.

New trial / Retrial - Ritrazzazzjoni

Demand of retrial brings about a new separate judgment.

Demand can only be made once unless new grounds arise.

Retrial cannot be demanded on judgment given from a retrial.





**Diploma in Law
(Malta)**