

Recap

- Interpreting legislation – leg. Is drafted in generic words -> identify elements of each specific article ex: Spoliation Art. 535 of Cap 16 & 85 of Cap. 9
- Interpretation can be flexible vs rigid
- Wrong application of law (appealable) vs wrong Interpretation of law (not appealable)
- Interpretation Act
- Writing – format depends on what one is writing
- Judicial acts – application, sworn application, sworn reply



Legal Research and Interpretation Methodology

Lecture Title: Legal Writing, Referencing and Ethics

Lecturer: Dr Elian Scicluna

Date: 19/02/2025



7. Writing – Legal Writing – Legal Correspondence

1. Letters to clients informing of status of case
2. Letter of opinions – mostly done yearly for auditing of account purposes
3. Letters to counterparties – At initial stage pre-proceedings, during proceedings (on a without prejudice basis), post proceedings for collection of fees and expenses, if suit is won with costs



Taxxa uffiċjali tas-servizz u spejje ta' Rikors Garanzental Numru: XX/18 JVC 8 annessi "X" u "Y" tadotta fil-Corti Civili/Pretorjali 18-1 ta' Oġġu 2021 - 18-18 relattiv u sussegwenti

Rikors ta' -
MBA/Jura 18- 04-JUN-2021

DATA	DETTALJI	ATTUR	WONNUT
		€	€
20-Mar-18	Rikors Garanzental	174.48	0.00
	Kopp - € 4.88	4.88	0.00
10-Mar-18	Risposta Garanzental	0.00	112.33
	Kopp - € 4.88	0.00	0.00
20-Feb-20	Affidavit - €20.26	46.58	0.00
11-Sep-20	Inspezzjoni	7.90	0.00
	Avukat u Prokuratur Legali	8.32	0.00
01-Jan-21	Dett regjistru cedula	0.00	0.00
	Dett avukat	458.98	458.00
	Dett prokuratur legali	158.00	158.00
		698.48	672.33
	IMBORSI	16.25.00	
	TOTAL	6.643.48	6.712.33

Ilma

Deputat Registratur

Eugenia Cutajar
Sezzjoni Taxxi

M.B. Din il-Laxxa tinfexx il-Manda u l-Ordni Deputat Registratur ta' dan il-Kors uffiċjali.

7. Writing – Legal Writing – Legal Correspondence – “Without prejudice”

- The term ‘without prejudice’ will generally prevent statements made in an attempt to settle an existing dispute, whether made in writing or orally, from being put before the court as evidence of admissions against the interests of the party which made them
- Emails can also be without prejudice
- E.g:- A owes B 10,000 euro
- B sends legal letter to A calling for payment of the 10,000 euro
- B replies with a ‘without prejudice’ legal letter saying that he does not owe money but to settle the matter amicably offers the 3,000euro
- A cannot submit B’s legal letter in a court case since it is without prejudice
- Chamber of Advocates Paper
<http://avukati.staging.wpx.rightbrain.cloud/wp-content/uploads/2018/02/Guidleines-on-the-use-of-the-term-Without-Prejudice-1.pdf>



29th March 2022

Dr
Address

Dear Colleague,

Re: Estate of the late X
Without Prejudice

I am instructed by Mr and Mrs X to reply to your letter of the 7th instant.

I am instructed that my clients' share is of two thirds and not one half as you have advised in your correspondence.

In view of proceedings instituted in the Civil Court by Ms X against your client, my clients are of the view that it is not opportune to proceed as is being suggested in your letter. To the extent that my clients wish to settle all matters relating to their late daughter as soon as possible, it might be appropriate to convene a meeting for all parties concerned. It is my understanding that Ms X (whom I also represent) is not averse to an out of court settlement.

I look forward to your reply.

Kind regards,

7. Writing – Legal Writing – Legal Correspondence – “Without prejudice” email

WITHOUT PREJUDICE

Dear Dr. Vella,

*Reference is made to the Provisional Estimates issued on 3rd May 2017 in respect of **Vat Reg.XXX**:*

- Output Tax Eur 24,274.80*
- Administrative Penalty Eur 4,854.96*
- Interest Eur 8,103.45.*

A meeting is hereby being requested to discuss prospects of reaching an agreement between the parties, to reach an out of court settlement on this pending matter.

In the interim period, the appeal case (XX/XX) is to be put on hold until a settlement is reached.

Thank you for your kind consideration.

Best regards,



7. Writing – Legal Writing – Case Briefs

- Case summary
- Include only most relevant facts of the case that highlight the main issue, identify the applicable law, application of the law to the issue, include court's reasoning and decision
- Check for assenting or dissenting opinions especially when dealing with ECHR judgments
- The summary of the facts is only a small fraction of case briefs

Example: https://www.youtube.com/watch?v=wzWq_XJE-w&t=1s



7. Writing – Legal Writing – Case Briefs



Information Note on the Court's case-law 2021

May 2021

***Terhaş v. Romania (dec.)* – 49023/20**
Decision 13.4.2021 [Section IV]

Article 5

Article 5-1

Deprivation of liberty

102-day general lockdown imposed by the authorities to tackle the COVID-19 pandemic;
Article 5 inapplicable; inadmissible

Facts – On 11 March 2020 the World Health Organization declared that the world was facing a pandemic caused by COVID-19.

On 16 March 2020 the Romanian President therefore introduced a state of emergency involving restrictions on freedom of movement. No movement outside the home was permitted, except in a certain number of exhaustively listed circumstances and on production of a document attesting to valid reasons for leaving home. Persons breaching the regulations were liable to a fine.

The state of emergency ended on 14 May 2020 at midnight.

Law – Article 5 § 1. The applicant did not rely on Article 2 of Protocol No. 4 in the proceedings before the court, seeking instead to demonstrate that the general lockdown had constituted a deprivation of liberty and not simply a restriction of the right to freedom of movement.

The measure complained of had been imposed under a state of emergency, with the aim of isolating and confining the entire population on account of a public-health situation which the competent national authorities had deemed to be serious and urgent. Under Romanian law a state of emergency was a special legal regime which entailed a set of exceptional measures to be taken derogating from the established constitutional order. It was thus declared in the event of imminent or actual danger, for a specified period, and allowed the State to take measures restricting the exercise of certain fundamental freedoms. The Romanian President had declared the state of emergency after consulting the competent bodies, and on account of the "exceptional and unforeseeable context" created by the evolving international situation regarding the epidemic: the SARS-CoV-2 coronavirus was spreading throughout the world and the World Health Organization had officially declared it a pandemic. If the authorities had not taken extraordinary measures as a matter of urgency to stem the spread of the virus in the population, their lack of action would have had very serious repercussions, primarily on the right to life and, secondarily, on the right to health. Hence, the gradual introduction by the Romanian State of emergency measures, including lockdown, had been aimed at mitigating the economic and social impact of the epidemic and safeguarding the right to life.



– 3 –

In the Court's view, the COVID-19 pandemic was liable to have very serious consequences not just for health, but also for society, the economy, the functioning of the State and life in general, and the situation should therefore be characterised as an "exceptional and unforeseeable context".

The impugned measure had remained in place for fifty-two days. It was a general measure imposed on the whole population through legislation enacted by the various authorities in Romania. As a result of the implementation of the measure the applicant had been obliged to stay at home, being allowed to leave only for one of the reasons expressly provided for in the legislation, and with the relevant exemption form.

Thus, the applicant had been free to leave his home for various reasons and could go to different places, at whatever time of day the situation required. He had not been subject to individual surveillance by the authorities and did not claim to have been forced to live in a cramped space, nor had he been deprived of all social contact. Accordingly, in view of its degree of intensity, the measure in question could not be equated with house arrest.

Furthermore, the applicant had not explained in concrete terms how the measure had affected him. He did not allege that his circumstances were not covered by any of the reasons for leaving home provided for by the legislation and that he had thus been confined indoors for the entire duration of the state of emergency. More generally, he had not provided any specific information describing his personal experience of lockdown.

In view of all these considerations, the level of intensity of the restrictions on the applicant's freedom of movement had not been such that the general lockdown ordered by the authorities could be deemed to constitute a deprivation of liberty. Accordingly, the applicant could not be said to have been deprived of his liberty within the meaning of Article 5 § 1.

Lastly, Romania had announced its intention to derogate under Article 15 of the Convention from the obligations flowing from Article 3 of Protocol No. 4 guaranteeing freedom of movement, a right which the applicant had not asserted before the Court. In any event, given that Article 5 § 1 was not applicable in the present case, it was not necessary to examine the validity of the derogation notified to the Council of Europe by Romania.

Conclusion – inadmissible (having regard to the above material).

© Council of Europe/European Court of Human Rights
This summary by the Registry does not bind the Court.

[Click here for the Case-Law Information Notes](#)



7. Writing – Legal Writing – Legal Briefs/ note of submissions - sottomissjonijiet/ observations - osservazzjonijiet

- <https://legaldictionary.net/legal-brief/> definition:-
 - *A short and concise statement*
 - *A document that presents a legal argument to a court explaining why that party should prevail over the other*
- Maltese version known as note of submission/ note of observation
- Art. 165 and 166 of Cap. 12:

165. It shall be lawful for the court, on the case being closed, at the request of either of the parties, to grant leave for filing, within a time to be fixed by the court, a written pleading containing a summary of his submissions provided the opposite party shall not show that such leave would cause a delay to his prejudice

166. Where leave as provided in the last preceding article is granted to either of the parties, the opposite party shall be entitled to file in reply another written pleading within a time equal to that which shall have been fixed by the court as aforesaid, to be reckoned from the day of the service of the written pleading for the filing of which the court shall have granted leave.

7. Writing – Legal Writing – Legal Briefs

- Legal brief may be done orally unless there are complicated legal issues/ facts
- May even take 3-4 days if matter is complex
- Brief needs to persuade
- If writing on behalf of plaintiff, quote application, reply, counterclaims and replies and any decrees or interim judgments given
- If writing on behalf of defendant, no need to quote application, reply and decrees unless you need to make reference to them
- Must be concise approx. 3-5 pages of observations/ submissions
- Go through court file, refer to fol. numbers for easier reference
- Target legal issues
- Do not include facts/evidence which does is not relevant
- Research case law
- Refer to the elements of the law
- Conclude by requesting the remedy sought
- Mostly done in Maltese
- Similar process is used for appeals and replies

(4) For filing any application requesting a new taxing of fees or the approval of an itemization of expenses made under this article there shall be paid a fee of _____ €50⁰⁰.

15. Fee for the approval by the Court of sales in accordance with Sub-Title V of Title VII of Part I of Book Second (Of Court Approved Sales of Ships, Vessels and Aircraft) - there shall be paid a registry fee, calculated on the sale value of the asset being sold.

On the first Euro 1,000,000	1%
From Euro 1,000,001 to Euro 5,000,000	0.5%
From Euro 5,000,001 to Euro 10,000,000	0.1%
Above Euro 10,000,000	0.01%

TARIFF II

**Fees payable to Advocates, Legal Procurators
and Official Curators**

	£
1. (a) For each note of acceptance of bonds and for each protest against the sufficiency of a bail for costs, even if each protest is not filed separately	11.65
(b) For each note required to be filed under the provisions of the <u>Commercial Code</u>	11.65
(c) For every note of submission filed in any court,	40.59
to	232.94
2. (a) For each application for summoning of witnesses	
(b) For each first application for sale of immovables (including research in the Public Registry, the ordering of certificates of hypothec, and perusal of relative deeds)	23.29
to	69.88
(c) For any other application	11.65
to	58.23
(d) For any application filed after office hours or on a Sunday or public holiday, there shall be taxed an additional fee of	58.23
3. For each application filed in the Court of Voluntary Jurisdiction:	
(i) if it concerns the admission of minors to an industrial school or to an approved school	8.99

X1 OFFICIAL SITE VISIT X19 COURT SITTINGS

BORD LI JIRREGOLA L-KERA



RENT REGULATION BOARD

Taxxa ufficjali tad-drittijiet u spejjez tar-Rikors Nu: 7/13 fl-ismijiet " Carmel Demanuele vs Carmelo Busuttil " deciza fil-Bord li jirregola l-Kera fil-11 ta' Jannar 2017 fl-atti relattivi u sussegwenti

Meluba minn Av / Pl

Rilascata fil-

Mahduma **11 May 2017**

DATA	DETTALJI	ATTUR	KONVENUT
		€	€
13-May-13	Rikors	48.91	0.00
	Kopji @ € 4.66	9.32	0.00
31-May-13	Risposta	0.00	23.29
	Kopji @ € 4.66	0.00	4.66
11-Jul-14	Nota	0.00	2.33
	Affidavits - Dritt avukat @ € 23.29	0.00	23.29
03-Feb-15	Ingunzjoni	0.00	16.50
	Dritt avukat u pl	0.00	9.32
04-Mar-15	Nota	0.00	0.00
	Affidavits - Dritt avukat @ € 23.29	0.00	46.59
22-Jun-15	Ingunzjoni	14.40	0.00
	Dritt avukat u pl	9.32	0.00
22-Oct-15	Ingunzjoni	14.40	0.00
	Dritt avukat u pl	9.32	0.00
12-Aug-16	Nota ta' l-osservazzjonijiet	2.33	0.00
	Dritt avukat u pl	186.35	0.00
03-Oct-16	Nota ta' l-osservazzjonijiet	0.00	2.33
	Dritt avukat u pl	0.00	186.35
11-Jan-17	Dritt registru sentenza	0.00	0.00
	Dritt avukat	11.65	11.65
	Dritt prokuratur legali	3.88	3.88
		0.00	0.00
		€ 309.88	€ 330.19
	RIMBORS		
	TOTAL	€ 309.88	€ 330.19

Ilum

Melissa Galea

Deputat Registratur

N.B. Din it-taxxa trid tkun iffirmata minn Deputat Registratur biex tkun ufficjali.

www.21Academy.education

[illegible]

7. Writing – Legal Writing – Legal Briefs

[illegible]

This is a responsibility that I believe I have the ability to fulfill. I am a person of integrity and I am committed to the highest standards of conduct. I am confident that I can be a valuable asset to your organization.

"Any director who is guilty of a fraud as to the commission of any other tort is personally liable to the injured party. This is so the principle that whoever commits a wrong is liable for himself, and, accordingly, in this tort acting as an agent or servant, on behalf, and for the benefit of another, for the contract of agency, or service cannot impose any obligation on the agent or servant to commit, or assist in the committing of, fraud of any other wrong. The Company may also be liable but this does not exonerate the director."

Thi i Qosa ta' l'Appell Kommerċjali tal-Artigiani tagħna tal- 23 ta' Janwar 1977 għallura Ewangel John Dimech ta' Giorgio Maria Vella Gatt poġġo et nomina, kienet cirta fno x-xifra fjo għ-konvenit kien qie razzu personalment u kelpa għall-ura f'wiedha għall-konvenit ta' lura.

Il-Qorti tal-Appell. Sa-sentenza tagħna tal-5 ta' April 2012. Maqgħod li

For signed, non-reproducible, personal, full-domain, Peter Bacciaro, how can I write from below and to find from below the globalizing the corporate veil. P.O. Box 8040, Company Law (7th Ed., 2008 pages 62), 3-10000 (Johns & Co.).

"It is well established that the courts will not allow the emergency doctrine to be used for the purposes of fraud, or as a device to evade a contractual or other legal obligation."

[illegible]

Rakennus on ollut glass-seininen 8-kerkoinen "Ice Vella" tai Luma Salainen" design
Ennen 4. Maig. 2014 olli Pieni Auki 10-Qotti Cylo Sija asuud.

Arutaka (H) was 1.6 km; gof uita, ngāhanga to - Gorge 66 km; Waiata 24 m; Gahara, kōpū hōkū 66 km; Waiata 11 m; Rite Vaka.

[illegible]

"If a company is found for the express purpose of doing a wrongful act or if, when formed, those in control expressly direct that a wrongful act be done, the individuals as well as the company are responsible for the consequences, but there is no evidence in the present case to establish liability under either of these heads."

Regulation 6 of the new tobacco products regulations will fix a maximum weight of 1.1g for the 1001 approved "loose, leaf-wrapped cigarettes that have 11 mg of tar and 0.9 mg of nicotine".

Notes a former chief, first after Lucio, Konradine Thiele, Electronics SA's Vice Digital Sales GmbH, the defendant director was in charge of the day-to-day running of the defendant company. It was admitted that the company imported into the UK and kept and displayed of numerous CDs of a kind that the court previously had held infringed the claimant's patent. The director had been responsible for the decision to export the infringing CDs into the UK and for the exhibition of it as a customer for these products. The director also made a decision to indemnify a separate liability for another when the claimant used A for infringement. The court concluded that the director's close involvement with the day-to-day actions of the company, and his independent actions in respect of these actions were sufficient to render him liable as a joint venturer with the company'. [Company Law, Seventh Edition, Torkie Edmonds, Oxford (2012) pages 310.

Don appears to think *dozumi* (cf. *dozumi*) is the same as *dozumi* (cf. *dozumi*)
 (cf. *dozumi* (cf. *dozumi*)).

Daar is een aantal getrouwde en niet-gehuwde partners die ook wel "Quasi-Civil Partners" of "Quasi-Civil Partnerships" worden genoemd. Dit is een soort van "civil partnership" die niet is gereguleerd door de Wet van 2005, maar die wel wordt erkend door de fiscus. Het is een soort van "civil partnership" die niet is gereguleerd door de Wet van 2005, maar die wel wordt erkend door de fiscus.

[illegible]

Et m'importe moins à long terme, j'ai beaucoup plus de plaisir à donner, à consacrer plus de temps à mes proches. Et j'ai beaucoup moins de soucis. C'est d'ailleurs la raison pour laquelle j'ai décidé de consacrer l'essentiel de mon temps à mes proches.

Il testo è stato trascritto e corretto da: *Il testo è stato trascritto e corretto da: [nome e cognome]*

Eq. (1)

† *H. gutturalis* is self-sterile, requiring a pollinator.

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7. Writing – Legal Writing – Legal Briefs

Health Care Professions Appeals Committee

As Appointed by

Mr. X

*Appointer's decision given by the
Pharmacy Council dated 10th
January 2020*

Submission to the Pharmacy Council following instructions filed by Dr. X

The Pharmacy Council (hereinafter referred to as "the Council") respectfully submits that on the 26th of X 2021 it was notified, via an email sent at 11:24 p.m., of the final submission submitted by Mr. X (hereinafter referred to as "the Appellant") to the Health Care Professions Appeals Committee (hereinafter referred to as "the Appeals Committee"). In line with the direction given by the Appeals Committee during the sitting held on the 18th of March 2021, the Council would like to submit the following arguments in reply to the Appellant's submission:

A. Summary of facts

The Appellant, a third country national, filed an application with the Council for registration and acquisition of a licence to practice as a pharmacist in Malta. Said licence awarded following specialised training within the community and as an acknowledgment of one's duty to work as a pharmacist within the community.

Upon assessing the application, the Council refused to issue the licence at that stage since the Appellant's "qualifications differ from the Maltese qualifications and with the minimum training requirements established under the EU Directive with regards to duration, content and practice".¹

The Council also suggested that the Appellant is to "understand suitable training that is 'represented by, or equivalent to, that offered in the 12 month (1) university diploma course offered by the University of Malta'".

The Council has already informed the Appellant that following the successful completion of said course and suitable examinations, the Council would positively consider the Appellant's application.

¹ vide Council's letter of the 17th January 2021

At this stage, the Council submits that the Bachelor of Pharmacy course in Malta is 3 years long and it includes practice in the community as it requires the student do an apprenticeship in a local pharmacy and ethical training related to the exercise of the pharmaceutical profession. The Appellant's Bachelor's course in Italy, which it is to be considered as the equivalent to the local course, is 4 years long. The Maltese course and subsequent PhD studies in Torvergata are specialisation in biopharmacy and molecular biology that do not consider knowledge and skills in the area of Pharmacy, equivalent to the Degree in Pharmacy offered by the University of Malta.

Moreover, the Appellant's academic specialisations, while laudable, do not include training within the Maltese Community. Furthermore, most of the Appellant's practical experience has been one related to the Pharmaceutical Industry, that is the manufacture of medicines, and not acting as a pharmacist within the community.

It must be further noted the disparity in curricular exposition of the course content for the various academic qualifications achieved by the Appellant also MAKES IT EVIDENT that said courses included training in pharmaceutical ethics.

B. Legal provisions regulating the Council's decision

The conditions to practice as a pharmacist in Malta are laid out in Articles 15 and 17 of the Health Care Professions Act (Chapter 404 of the Laws of Malta).

According to Article 17(1)(a), in the case of an applicant coming from a third country, that is a non-EU Member state, "The Pharmacy Council may, in respect of such qualifications, require the applicant to *ex-ante* and *post* a professional and linguistic proficiency test and may also require that the applicant undertake further training in pharmacy in a pharmaceutical establishment recognised for the purpose by the said Council".

Furthermore, Malta is bound by Council Directive 1800/54/EC (hereinafter referred to as "the Directive") and any decision by the Pharmacy Council in terms of Article 16 (1)(a) Chapter 404 has a bearing on other EU Member States¹. Through the Directive, the principle of automatic recognition amongst member states has been introduced and hence, any recognition of qualifications by the Maltese Authorities, including the Council, would mean that said recognition is valid for all EU member states.

According to Article 44.3 of the Directive, "Evidence of the formal qualifications or a pharmacist shall consist in training of at least five years' duration". The programme to be followed is that described in Annex V point 1.6.3 of the Directive and includes preparation in: "Legislation and, where appropriate, professional ethics".

¹ according to the President of Malta for the granting of licence to pharmacists to exercise their profession being one of the main functions of the Council

According to Article 44.3 (a) of the Directive, "evidence for pharmacists shall provide an assurance that the person concerned acquired ... adequate knowledge of the legal and other requirements associated with the practice of pharmacy".

Therefore, the Council is duly bound to ascertain that the Appellant is not only competent in the technical aspects of the exercise of the profession, but also the daily, practical, and ethical performance of the profession.

C. Application of the law to the Appellant's case

In its consideration of the Appellant's application, the Council used its discretion as per Article 15(2)(c) of Chapter 404 of the Laws of Malta.

Since the Appellant is not an EU national and his Bachelor in pharmacy course is 4 years long and not 5 years, as required by Article 44.2 of the Directive, the Council notes that the additional 12-month training programme is to be undertaken.

Said programme would include training within a Maltese pharmacy, which would help the Appellant to familiarise himself with the running of a pharmacy in Malta and the specialised system therein, such as the Pharmacy of Your Choice Scheme (PYCS), as required part of the exercise of the pharmaceutical profession in the Maltese community.

Moreover, the additional training and various in-person the relative exams, would provide in assistance to the Council that the Appellant has acquired adequate knowledge of the legal and ethical undertones of exercising the pharmaceutical profession in Malta. Consequently, the Council would ensure that the Appellant is duly qualified to practise the profession within the European Union. This factor formed a significant factor in ascertaining that an education about the ethical aspects of the profession was not provided at any stage as the Appellant's academic formation.

D. Concluding remarks

The Council respectfully submits that its decision as communicated to the Appellant on the 22nd January 2021 was legally and factually justified and therefore it is to be upheld since it is not only in conformity to the Law but to the duties set upon the Council in ensuring the highest standard of technical and ethical formation within the pharmaceutical profession.

Dr. X
Legal Counsel for the Pharmacy Council

Mr. X
Appellant

7. Writing – Legal Writing Tips

- Use active voice unless you want to emphasise – active voice: the subject of sentence performs the action.
- Application will be targeted toward judge and opposing legal counsel unless it is a judicial letter
- Make objective not personal arguments
- Be direct and straight to the point
- Request in application must be clear
- Try to stick to short sentence
- Use citations
- If drafting note of submission/ observation/ appeal provide the solution/ answer to the problem
- If judicial letter use simpler language since it is directed to the opposing party who might not know legal terms
- In notes of observations/ submissions/ appeal applications if plaintiff, quote application and reply. If replying as defendant, no need to quote application and reply
- Make reference to case law if any and authors
- Watch for deadlines and particular articles of the law
- Video – 10 Legal Writing Tips with examples: <https://www.youtube.com/watch?v=FsJuGSL9vyg&t=99s>

Active Voice

Alex wrote an essay about his grandfather's Alzheimer's.



Passive Voice

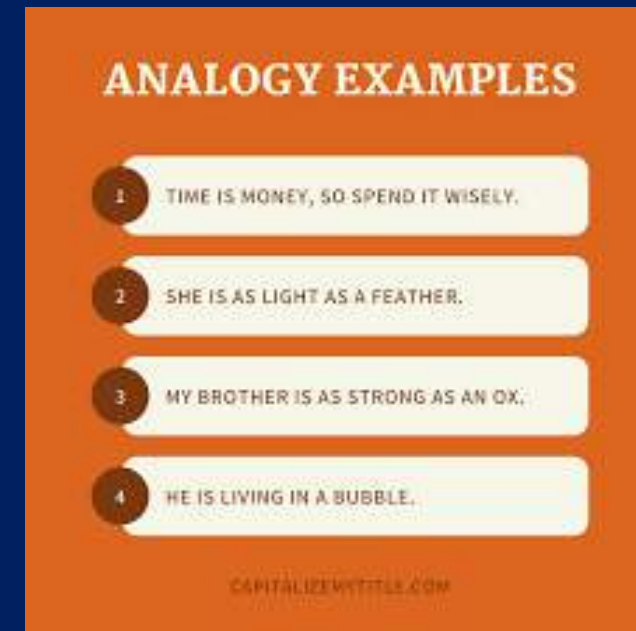
An essay about Alzheimer's was written by Alex.



7. Writing – Legal Writing Tips

Ross Guberman “Point Made – How to Write Like the Nation’s Top Advocates” tips:-

1. Provide the context of the case – explain who are the parties, what question is the case trying to answer, when and where the event happened and why should you win
2. Structure the argument section
3. Given the court a reason to want to find for you – include judicial fears: i. The fear of applying the wrong law, ii. the fear of creating new duties, rules or defenses and iii. The fear of reaching an unfair result or causing harm e.g. Include the possibility of anti-constitutionality of a judgment if awarded in a particular way
4. Pre-empt your opponent’s arguments
5. Use headings to attract attention
6. Acknowledge bad facts but put them in context and counter them by other arguments
7. Show why your client is right and if your client is in the wrong humanize the situation
8. Use analogies
9. Answer questions which the court might raise when writing the judgment
10. Link your case or party with caselaw you made reference to i.e. Applicability
11. Show that opponent’s caselaw is less applicable or inapplicable to caselaw cited by yourself
12. Search opponent’s caselaw
13. Use figures of speech
14. Use rhetorical questions to impugn opponent’s arguments
15. Use tables and charts to add interest
16. End the argument with a provocative quotation or thought
17. Wrap up by recasting your main points



Referencing

- Referencing allows you to acknowledge the contribution of other writers and researchers in your work.
 - Used to avoid plagiarism if used correctly
 - Various referencing styles – e.g. OSCOLA (law), Harvard (economics), APA (psychology), MLA (language and literature)
 - OSCOLA - Oxford University Standard for Citation of Legal Authorities - <https://www.law.ox.ac.uk/OSCOLA>
 - OSCOLA referencing system is used for legal referencing in Malta incl. legislation, case law, books, journals, websites and other sources.
 - Complete guide accessible on https://www.law.ox.ac.uk/sites/files/oxlaw/oscola_4th_edn_hart_2012.pdf
- Updates and FAQs available on <https://www.law.ox.ac.uk/oscola-faqs>

- Video:

[University Law Teacher Explains OSCOLA Referencing and Bibliographies - YouTube](#)

- Generators
- [OSCOLA Referencing Generator | Reference Tool \(lawteacher.net\)](#)
- [Free OSCOLA Referencing Generator by Cite This For Me](#)



Referencing

- OSCOLA distinguishes between primary and secondary sources
- Primary sources are legal sources, such as cases and legislative documents. Secondary sources include books, journal articles, and websites.
- In 2022 the GHSL (Ghaqda Studenti tal-Ligi) adapted the OSCOLA guideline to the Maltese Context

Referencing - Legislation

- Example OSCOLA References for EU Legislation

Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community [2007] OJ C306/0

- Example OSCOLA References for Common Law Legislation:-
- *Housing Act 2004 (Commencement No. 6)(England) Order 2006, SI 2006/3191, art 2(a)*
- Reletting of Urban Property (Regulation) Ordinance, 1931
- Reletting of Urban Property (Regulation) Ordinance, 1931, s 4A (can also use A for article)
- “s” in “s 4A” is short for section. If it was more than one section, therefore sections, abbreviation would be “ss”
- Other abbreviations: subsection/sub-sections – sub-s/sub-ss, schedule/s –sch/schs, regulation/ regulations – reg/regs, article/articles – art/arts

Referencing – Caselaw

PARTY NAMES, YEAR, VOLUME NUMBER, REPORT SERIES, FIRST PAGE OF REPORT, INITIALS OF THE COURT

Corr v IBC Vehicles Ltd [2008] UKHL 13, [2008] 1 AC 884

- The example above shows that this is a case involving Corr and IBC Vehicles Ltd. It was the thirteenth judgement issued by the House of Lords (UKHL) in 2008. It also indicates that a report of the judgement can be found in volume 1 of the series of the Law Reports called the Appeal Cases, beginning at page 884.

Joseph Borg vs Mary Borg [2022] (P.A)

- Order may change e.g. Initials of court are given after the year



Referencing – Maltese Caselaw

No standard in Maltese judgments

² *Ara Camilleri v Agius* P.A.20/10/1882.
³ *Ara* Vol.XXXVIII.1283.
⁴ *Ara* Vol.XLII.1133.
⁵ *Ara* Vol.X-556; Vol.LXXXIII.1176; Vol.XXXVIII.128; Vol.XXXII.1149.
⁶ *Ara* Vol.XXXII.11642; Vol.LXXXIII.1179.

⁷ 108/2018JVC decided 23/01/2020 appealed Judgement by the Constitutional Court is adjourned for the 5th of October, 2020.
⁸ 283336/02: 26/2/2009 (published in French).

⁵ Fol. 63.
⁶ Fol. 65 – 67.

¹ See by way of example verbal of the 11th of November, 2014 and that of the 14th of April, 2015

² Rik.nru. 333/2019.
³ App.Inf. 12.07.19.

¹ Q.A.(Sup.), 14.12.2018.

² European Court of Human Rights.
³ App no. 37537/13 (ECtHR, 12 April 2016).

Kummissarju tal-Pulizija' decided by the First Hall Civil Court (Constitutional Jurisdiction) on the 23rd November 2017 (App no. 92/2016 JPG).

⁴ Decided on the 23rd November, 2017 (App no: 92/2016 JPG)

⁵ Just like the Maltese system during that time (This reference can be found at the bottom of page 2 of the judgment in the names '**Christopher Bartolo (KI 390981M) vs Avukat Generali**

Referencing - Books

- AUTHOR, TITLE, ADDITIONAL INFORMATION, EDITION, PUBLISHER YEAR

Gareth Jones, Goff and Jones: The Law of Restitution (1st supp, 7th edn, Sweet & Maxwell 2009)

Chapters in Books with multiple editors - AUTHOR, TITLE, IN EDITOR (ED), BOOK, ADDITIONAL INFORMATION, PUBLISHER, YEAR

Justine Pila, 'The Value of Authorship in the Digital Environment' in William H Dutton and Paul W Jeffreys (eds), World Wide Research: Reshaping the Sciences and Humanities in the Century of Information (MIT Press 2010)

Referencing – Journal Articles

- Start with the article author (first name/initial then surname,), then the article title in single quotes.
- After the title, give the publication information in the following order:
 1. year of publication, in square brackets if it identifies the volume, in round brackets if there is a separate volume number;
 2. the volume number if there is one (include an issue number only if the page numbers begin again for each issue within a volume, in which case put the issue number in brackets immediately after the volume number);
 3. the name of the journal in roman, in full or abbreviated form, with no full stops; and
 4. the first page of the article.
- Articles from journals without independently numbered volumes should follow the format: AUTHOR, TITLE, YEAR, JOURNAL NAME OR ABBREVIATION, FIRST PAGE OF ARTICLE.

Paul Craig, 'Theory, "Pure Theory" and Values in Public Law' [2005] PL 440.

- Articles from journals which do have independently numbered volumes should follow the format: AUTHOR, TITLE, YEAR, VOLUME, JOURNAL NAME OR ABBREVIATION, FIRST PAGE OF ARTICLE.

Alison L Young, 'In Defence of Due Deference' (2009) 72 MLR 554.

- Put a comma after the first page of the article if there is a pinpoint (particular reference to specific paragraph or page)

JAG Griffith, 'The Common Law and the Political Constitution' (2001) 117 LQR 42, 64.



Referencing - Websites

Follow the general principles for citing secondary source:-

1. Give the author's name exactly as it appears in the publication.
 2. If no individual author is identified, but an organisation or institution claims editorial responsibility for the work, then cite it as the author.
 3. If appropriate to cite an anonymous source (eg blog) start citation with the title.
 4. All titles should be within single quotation marks and in roman. Capitalize the first letter in all major words in a title.
- The most important features of a citation to a website are the web address in <angled brackets> and the date on which you accessed it.

Sarah Cole, 'Virtual Friend Fires Employee' (Naked Law, 1 May 2009) <<http://www.nakedlaw.com/2009/05/index.html>> accessed 19 November 2009

- If you source a publication online which is also available in hard copy, cite the hard copy version. There is no need to cite an electronic source for such a publication
- For online journals - AUTHOR, TITLE, YEAR, VOLUME/ISSUE, JOURNAL NAME OR ABBREVIATION, <WEB ADDRESS>,DATE ACCESSED.

Graham Greenleaf, 'The Global Development of Free Access to Legal Information' (2010) 1(1) EJLT <<http://ejlt.org/article/view/17>> accessed 27 July 2010



Referencing – General Principles

Quotations

1. Quotations that are three lines or shorter should be incorporated in the text. Use 'single quotation marks', but if you need to submit your work to Turnitin, use "double quotation marks".
2. Quotations longer than three lines should be an indented paragraph. Do not include quotation marks.

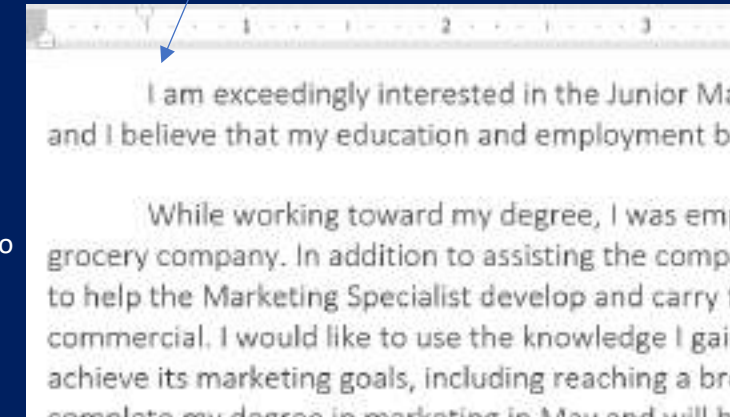
Footnotes

1. Put the footnote marker at the end of a sentence, unless for the sake of clarity it is necessary to put it directly after the word or phrase to which it relates
2. The superscript number (footnote number) should be after the full stop or comma

Authors' names

1. Give the author's name exactly as it appears in the publication, but omit postnominals such as QC
2. If there are more than three authors, give the name of the first author followed by 'and others'
3. If no individual author is identified, but an organisation or institution claims editorial responsibility for the work, then cite it as the author
4. If no person, organisation or institution claims responsibility for the work, begin the citation with the title
5. In footnotes, the author's first name or initial(s) precede their surname
6. In bibliographies, the surname comes first, then the initial(s), followed by a comma

Indented para.



Referencing – General Principles

Titles

1. *Italicise* titles of books and similar publications, including all publications with ISBNs
2. All other titles should be within ‘single quotation’ marks and not in *italics*
3. Capitalize the first letter in all major words in a title
4. Minor words, such as ‘for’, ‘and’, ‘or’ and ‘the’, do not take a capital unless they begin the title or subtitle



Referencing – General Principles

Dates

1. When a full date is required, the format should be '1 January 2016'
2. There is no specific need for 'st' or 'th' after the day
3. If something spans more than one year in the same century, the format is '1972-84'

Subsequent Citations

1. If a citation is the same as the one immediately before it, you can put 'ibid' in the footnote
2. If the citation is the same as another, you can use a shortened form, followed by a reference to the footnote e.g. Stevens (n 1) 110.



OSCOLA Quick Reference Guide

Primary Sources

Do not use full stops in abbreviations. Separate citations with a semi-colon.

Cases

Give the party names, followed by the neutral citation, followed by the *Law Reports* citation (eg AC, Ch, QB). If there is no neutral citation, give the *Law Reports* citation followed by the court in brackets. If the case is not reported in the *Law Reports*, cite the All ER or the WLR, or failing that a specialist report.

Corr v BSC Vehicles Ltd [2008] UKHL 13, [2008] 1 AC 884
R (Roberts) v Parole Board [2004] EWCA Civ 1051, [2005] QB 410
Pager v Smith [1996] AC 155 (HL)

When pinpointing, give paragraph numbers in square brackets at the end of the citation. If the judgment has no paragraph numbers, provide the page number pinpoint after the court.

Gallery v Gray [2001] EWCA Civ 1117, [2001] 1 WLR 2112 [42], [45]
Bauer v Tiller [2006] EWHC 407 (QB), [2006] 3 All ER 336 [1]–[37]
R v Leake County Council, ex p Morris [1990] QB 523 (QB) 530–31

If citing a particular judge:

Arson v The Coal Authority [2004] EWCA Civ 892, [2005] Env LR 6 [27] (Laws LJ)

Statutes and statutory instruments

Act of Supremacy 1538
 Human Rights Act 1998, s 15(1)(b)
 Penalties for Disorderly Behaviour (Amendment of Minimum Age) Order 2004, SI 2004/3166

EU legislation and cases

Consolidated Version of the Treaty on European Union [2008] OJ C15/13
 Council Regulation (EC) 139/2004 on the control of concentrations between undertakings (EC Merger Regulation) [2004] OJ L24/1, art 5
 Case C-176/03 *Commission v Council* [2005] ECR I-7879, paras 47–48

European Court of Human Rights

Onayadi v UK (2009) 51 EHRR 10
Osman v UK ECHR 1998-VIII 3134
Balogh v Hungary App no 47940/99 (ECtHR, 20 July 2004)
Simpson v UK (1989) 64 DLR 188

Secondary Sources

Books

Give the author's name in the same form as in the publication, except in bibliographies, where you should give only the surname followed by the initials. Give relevant information about editions, translations and so forth before the publisher, and give page numbers at the end of the citation, after the brackets.

Thomas Hobbes, *Leviathan* (first published 1651, Penguin 1985) 268
 Gareth Jones, *Goff and Jones: The Law of Restitution* (1st supp, 7th edn, Sweet & Maxwell 2009)
 K Zweigert and H Kötz, *An Introduction to Comparative Law* (Tony Weir tr, 3rd edn, OUP 1998)

Contributions to edited books

Francis Rose, 'The Evolution of the Species' in Andrew Burrows and Alan Rodger (eds), *Mopping the Law: Essays in Memory of Peter Birks* (OUP 2006)

Encyclopedias

Blackwell's Laws (5th edn, 2010) vol 57, para 55

Journal articles

Paul Craig, 'Theory, "Pure Theory" and Values in Public Law' [2005] PL 440

When pinpointing, put a comma between the first page of the article and the page pinpoint.

JAG Griffith, 'The Common Law and the Political Constitution' (2001) 117 LQR 42, 64

Online journals

Graham Greenleaf, 'The Global Development of Free Access to Legal Information' (2010) 11(1) ELLT < <http://ellt.org/article/view/17> > accessed 27 July 2010

Command papers and Law Commission reports

Department for International Development, *Eliminating World Poverty: Building our Common Future* (White Paper, Cm 7656, 2009) ch 5
 Law Commission, *Reforming Bribery* (Law Com No 313, 2008) paras 3.12–3.17

Websites and blogs

Sarah Cole, 'Virtual Friend Fires Employee' (*Naked Law*, 1 May 2009) <www.nakedlaw.com/2009/05/index.html> accessed 19 November 2009

Newspaper articles

Jane Croft, 'Supreme Court Warns on Quality' *Financial Times* (London, 1 July 2010) 3

Bibliography

Bibliography should be at the end of the work. It lists all sources used in the work. Each source only needs to be listed once, even if you have referred to it multiple times in your work. Do not include background reading in your bibliography. The bibliography should appear after the text and after appendices. The bibliography should list the sources in alphabetical order.

Video: OSCOLA: Creating a Bibliography https://www.youtube.com/watch?v=SZJuw0_wCNk

Bibliographies take the same form as all other citations in OSCOLA, with 3 exceptions:

1. The author's surname should precede his/her initial(s), with no comma separating them, but a comma after the final initial;
2. Only initials should be used, and not forenames;
3. The titles of unattributed works should be preceded by a double em-dash. Works should be arranged in alphabetical order of author surname, with unattributed works being listed at the beginning of the bibliography in alphabetical order of first major word of the title.

Jones G, *Goff and Jones: The Law of Restitution* (1st supp, 7th edn, Sweet & Maxwell 2009)

Knapton S, 'Bad Owners to Blame for Aggressive Animals not their Breed' *The Daily Telegraph* (London, 3 Dec 2013)

<<https://www.telegraph.co.uk/lifestyle/pets/10491808/Bad-dog-owners-to-blame-for-aggressive-animals-not-their-breed.html>> accessed 16 Nov 2020)

If your piece of work is long, you can divide the bibliography into three sections: Cases, Legislation, and Bibliography

Unlike in footnotes, the author's surname should be listed first, followed by the author's initials. Unlike in the footnotes, you do not list the author's first names, just initials. The secondary material should also be listed alphabetically. If citing more than one work by the same author, list the author's works in chronological order (oldest first), and in alphabetical order of the first major word of the title within a single year.



For cases:-

1. Do not italicise case names.
2. List cases alphabetically in order of the first significant word. If the parties involved are only identified by initials the case should be listed under the initial.

For Legislation - This should include every statute listed in your piece of work (unless your lecturer has told you differently). Legislation should be listed in alphabetical order. Statutory Instruments should be listed separately after Statutes.

- A longer legal work, such as a book or a thesis, generally has a list of abbreviations and tables of all the cases, legislation and other primary legal sources cited in the work in the preliminary pages. The list of abbreviations should come before the tables, and the order of the tables should generally be: table of cases; table of legislation; other tables.

Plagiarism

- The University Assessment Regulations, 2009 (University of Malta) define plagiarism as “the unacknowledged use, as one's own, of work of another person, whether or not such work has been published, and as may be further elaborated in Faculty or University guidelines”.
- Plagiarism can be major or minor
- Major plagiarism is meant to cover what is generally understood to be prototypical plagiarism (significant unacknowledged borrowing), whereas minor plagiarism covers offences that could be construed as plagiarism but may be the result of academic incompetence, thus bringing into question the intent to deceive.
- Minor plagiarism also includes instances of unacknowledged borrowing whose contribution to a piece of writing is considered to be of little significance, with the proviso that repeated instances may escalate into a major offence.



Major Plagiarism cases and examples

1. Significant unacknowledged copying of text, diagrams, tables, images or other material from any published or unpublished material, lecture slides or handouts, whether such material is in manuscript, print or electronic form.
2. Acquisition of work, designs, or concepts (including buying or commissioning work from third parties/professional agencies) prepared by one or more others and presenting the work in whole or in part as the student's own work.
3. Significant amounts of patchwriting (i.e. changing only some of the words, or the order of the words, or redrawing diagrams, etc.) with or without citation. Patchwriting should not be confused with paraphrasing, which is the appropriate (and acknowledged) rewriting of ideas present in a source text in the student's own words and should be actively encouraged as a feature reflecting maturity in academic writing.



Major Plagiarism cases and examples

- Examples:
 - Copying text or a diagram from another source, failing to enclose the copied text within quotation marks, or taking somebody else's ideas, and failing to correctly acknowledge the source of the text, diagram, or ideas.
 - Purchasing a paper or report from a 'paper mill'; paying others to prepare an assignment but then submitting the work under your own name.
 - Copying text but replacing some words or changing word order, whether or not the source is correctly acknowledged; re-drawing diagrams and failing to acknowledge the source.



Minor Plagiarism

Minor offences of plagiarism include:

1. Individual in-line citations lacking corresponding entries in the references section, or failure to compile a references section.
2. Demarcated text without in-line citation or instances of incomplete or inconsistent in-line citation.
3. Incorrectly written entries in a reference list, when this results in the reader's inability to create a correspondence between the entries in the reference list and in-line citations.
4. Inconsistent citation style, when this results in the reader's inability to identify sources.
5. Unacknowledged borrowing that does not contribute significantly to the text in question

Minor plagiarism usually involves cases where the student has used his/her own words by correctly paraphrasing or delimiting words that are others' (e.g., by enclosing them inside quotation marks), but where some references and citations are incomplete or inconsistent. As incomplete, inconsistent, or incorrect referencing means that an examiner may be unable to refer to the sources where the claims you make are substantiated, this constitutes minor plagiarism (at best), and academic fraud, in which claims are simply invented by the student and the reference to the source is deliberately obfuscated (at worst).

04/02/2022, 11:29

University Dean's article withdrawn over plagiarism claim

TIMES MALTA

University Dean's article withdrawn over plagiarism claim

Andrew Azzopardi denies 'any wilful misdoing'

National University

3 December 2021 | Fiona Galea Debono | 104

3 min read



Andrew Azzopardi (left) and Saviour Formosa are colleagues but have clashed over the issue of Malta's prison system.

An article co-authored by the university's Dean of the Faculty for Social Wellbeing Andrew Azzopardi has been removed from a journal on the basis of plagiarism.

Saviour Formosa, associate professor in the Department of Criminology, within the same faculty, who claims his papers have been plagiarised, said in a private Facebook group post that it was a "sad day for Maltese scholarship".

Privacy

<https://timesofmalta.com.mt/en/news/university-deans-article-withdrawn-over-plagiarism-claim/910037>

1/9

04/02/2022, 11:28

University Dean's article withdrawn over plagiarism claim

Formosa said he had asked Azzopardi to resign from his post as Dean.

While acknowledging that the work failed to meet academic standards, Azzopardi rejected any allegations that this was the result of any wilful misdoing and hoped that his colleague's criticism was not an attempt to silence his activism.

Azzopardi and Formosa have previously clashed on [the prisons issue](#), with the dean repeatedly calling for serious reform in the wake of a number of suicides.

Formosa described as "utterly condemnable" the fact that the authors of the article, Risk and Protective Factors in Violent Youth Crime, include Azzopardi, who is not only an academic but also the Dean of the Faculty of Social Wellbeing.

Research Support Officer Andrew Camilleri was the first author of the report and Azzopardi was the second.

"That a student plagiarises work is worrying, but that an academic and an RSO severely plagiarise colleagues' hard-sought publications is unheard of at this alma mater," Formosa charged.

The article was published in the faculty's Studies in Social Wellbeing journal in September, when the editorial board was notified of the complaint and was retracted on Wednesday.

In another post, the editorial board, in agreement with the authors, said it has removed the article from the first issue of the academic publication.

Editor in chief, Prof. Maureen Cole, declined to comment further and confirm why the article was removed, though it is understood that it did not meet the journal's required standards.

She also refrained from answering whether the editorial board's role was to check for plagiarism, with software tools available to do so and to confirm whether it was rare that academic papers were retracted from journals.

'Not of the standard befitting academia'

Sources said a part of the article in question had plagiarized papers, written jointly and uniquely, by Formosa and Prof. Janet Formosa Pace from the Department of Youth within the same faculty.

Privacy

<https://timesofmalta.com.mt/en/news/university-deans-article-withdrawn-over-plagiarism-claim/910037>

2/9





ACADEMICS AT UM



Saviour Formosa shared a post

39m · 🌐

Truly a sad day for Maltese Scholarship. That a student plagiarises work is worrying, that an academic and an RSO severely plagiarise colleagues' hard-sought publications is unheard of in this Alma Mater. That the authors include the Dean of Social Wellbeing is utterly condemnable.

The Journal "Studies in Social Wellbeing" retracted the offending paper.

<https://www.facebook.com/104180821136148/posts/486636542890572/>

I have asked Prof [Andrew Azzopardi](#) as Dean of Faculty for Social Wellbeing - University of Malta to resign.

We have much to strive for.



Studies in Social Wellbeing

30 November at 18:58 · 🌐

The Editorial Board, in agreement with the authors, has removed the article "Risk and Protective Factors in Violent Youth Crime" from the first issue of Studies in Social Wellbeing.

Saviour Formosa called for Andrew Azzopardi's resignation in a Facebook group for University academics.

Other sources, however, said it was more a case of "sloppy editing" and "poor paraphrasing" rather than plagiarism.

When contacted, Azzopardi acknowledged the "mistake", saying the work presented to the journal was "not of the standard befitting academia".

"Consequently, the main author and I have worked hand-in-hand with the editorial board of the journal and went above and beyond what was requested from us as authors and decided to retract the article in question of our own accord."

While agreeing that the paper could have benefited from further review, he rejected any allegations that this was the product of any wilful misdoing, as the editorial board itself noted. "If this is an attempt at silencing me I want to assure everyone that I will keep responding with vigour to the current social issues, whether it's about prisons, activism or other social issues I believe need to be represented in our society."

University Rector 'establishing facts'

The University of Malta's rector Alfred Vella said he was alerted to the matter on Wednesday and was "in the process of establishing the facts before coming to any decision".

According to the University's own guidelines for students, plagiarism is defined as "the unacknowledged use, as one's own, of work of another person, whether or not such work has been published".

However, it also accounts for "major" and "minor" instances of plagiarism: the former covers significant unacknowledged borrowing whereas the latter denotes instances of unacknowledged borrowing that is considered to be of little significance.

Minor instances are treated as "academic incompetence", which generally occur in the first year of undergraduate studies.

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Fiona Galea Debono

Pink Magazine editor

Tips to avoid plagiarism

- Keep track of sources immediately as you find them
- Cite and reference sources as you go along
- Use proper citations
- Quote (""") or paraphrase (express meaning using different words). Quote sparingly. Quotes are appropriate:-
 - You're using an exact definition, introduced by the original author
 - It is impossible for you to rephrase the original text without losing its meaning
 - You're analyzing the use of language in the original text
 - You want to maintain the authority and style of the author's words
- Credit the original author
- If need be inform the reader where the original claims, and evidence supporting them, are made
- Use a plagiarism tracker



Collusion

- Collusion occurs when two or more students collaborate to produce work, where such collaboration is not permitted. Examples:
 1. In supervised examinations, it is expected that students work individually, and no sharing of ideas or material is allowed; only reference to permitted resources is allowed
 2. In home assignments, unless otherwise specified, it is expected that students work individually, and no sharing of ideas or material is allowed; however, reference to publicly available information is permissible (with appropriate citation)
 3. If a home assignment is an individual assignment, students are permitted to communicate orally such that the problem assigned is understood - however, students are not permitted to share material
 4. If a home assignment is specifically group-work, it is expected that students take individual responsibility for the individually submitted contribution, but collective responsibility for the aspects of the submitted work that required a joint effort.

Examples: borrowing of assignment, sharing of work and incorporating them in your work, sharing solutions to problems,



Ethics – Research Ethics & Professional Ethics

- Research Ethics - There are cases where unethical means are used to produce a report/ paper since it is easy and quick e.g. Of unethical means – copying someone's idea and claiming it as yours
- There are no strict rules to be observed in research
- A set of principles developed over time

What is research ethics?

<https://www.youtube.com/watch?v=VcbPqhwJzcg>



Research Ethics



- Ethical principles stress the need to:-
 1. Do good (a.k.a beneficence) - Researchers should have the welfare of the research participant as a goal
 2. Do no harm others - an obligation not to inflict harm on others

In practice, these 2 principles mean that as a researcher, you need to:

- (a) obtain informed consent from potential research participants (explain what is the research about, why are they taking part in the research, opt for volunteers if possible)
- (b) minimise the risk of harm to participants (incl. psychological distress, financial status and invasion of privacy). Minimise risk by obtaining written consent forms, protect anonymity by removing names, surnames and other details
- (c) protect their anonymity and confidentiality (do not include unnecessary data, seek permission for divulging sensitive data)
- (d) avoid using deceptive practices (e.g. Identity or purpose of researcher are not given;
- (e) give participants the right to withdraw from your research.
- (f) Obtain consent from research institutes/ authors
- (g) Avoid plagiarism

Research Ethics

Ethical issue	Definition
Voluntary participation	Your participants are free to opt in or out of the study at any point in time.
Informed consent	Participants know the purpose, benefits, risks, and funding behind the study before they agree or decline to join.
Anonymity	You don't know the identities of the participants. Personally identifiable data is not collected.
Confidentiality	You know who the participants are but you keep that information hidden from everyone else. You anonymize personally identifiable data so that it can't be linked to other data by anyone else.
Potential for harm	Physical, social, psychological and all other types of harm are kept to an absolute minimum.
Results communication	You ensure your work is free of plagiarism or research misconduct, and you accurately represent your results.

Code of Ethics - Notaries

- Notaries' Code of Ethics Regulations – S.L. 55.09 regulates:-

1. Conduct and Diligence
2. Independence and Impartiality
3. Professional Relationships
4. Unlawful Competition
5. Professional Secrecy and Confidentiality



<https://legislation.mt/eli/sl/55.9/eng>

Notary is deemed to be an independent professional

Code of Ethics – Lawyers

- COMMISSION FOR THE ADMINISTRATION OF JUSTICE - CODE OF ETHICS AND CONDUCT FOR ADVOCATES accessible on <https://www.avukati.org/download/code-of-ethics/>

- Not an act or formal legislation but still a binding code

- Aim:

The purpose of this Code is to ensure that advocates do not act abusively or negligently or in a manner repugnant to the decorum, dignity or honour of their profession or in such manner as could seriously affect the trust conferred on them.

Regulates:-

1. The conduct of advocates
2. Relationship with clients – obtaining of instructions, taking of instructions, duties owed to clients during a brief
3. Professional Fees
4. Conflict of Interest
5. Confidentiality – lawyers are bound by the Professional Secrecy Act
6. Obligations to others – Relations with third parties, relations with other advocates
7. Particular areas of practice – litigation and advocacy, advocates in employment,
8. Lawfirms and associations – definitions and applications



Notarial Council and Commission for the Administration of Justice

- Notarial Council – has regulatory powers over notaries
- Commissioner for the Administration of Justice – has regulatory powers over lawyers and legal procurators
- Notaries, lawyers and legal procurators may be suspend, disqualified or issued with a fine
- Ban/suspension/disqualification may also be publicized



Former notary gets suspended sentence for misappropriation

Clients' contracts were not registered

Crime National Court

3 November 2020 | Edwina Brincat | 00

2 min read



Five of the clients had handed over money to the notary for the purpose of tax and duty payable on the relative causa mortis deeds and donations.

But years later, they discovered that the contracts had not been registered.

The notary was accused of misappropriation of funds and for failing in his duties as a public officer, committing an offence he was bound to prevent.

When releasing a statement to investigators and also when testifying in court, the former notary had explained how he had first been targeted in a scam which made it difficult for him to keep up with payments.

Trouble broke out with his clients and he had even landed in hot water with a retired judge who reviewed his notarial deeds, Said explained.

A garnishee order issued in favour of the VAT department further aggravated his position, since his overdraft was blocked and other accounts frozen making it impossible for him to register published deeds, paying the amounts due in tax and duty on documents.

However, on the basis of all evidence put forward, the court, presided over by magistrate Monica Vella observed that the scam had occurred in 2012 and the garnishee order had been issued the following year.

The notary had renounced his warrant in 2015.

The evidence showed that the notary had used the money to settle payments due on other contracts.

When clients asked why they had received no official receipt of registration, the notary would blame delays on government departments, rather than admit that the contracts had not been registered.

In all cases the misappropriation had been “amply proved,” said the court.

Years later the victims of the misappropriation had to fork out fresh sums to have their deeds registered, the court observed.

As a public officer and by way of his profession, the accused was bound to exercise a greater degree of diligence than the ordinary person, said the court, imposing a

Notary jailed for seven years for misappropriating funds from 85 clients

Thomas Vella ordered to repay clients following a guilty plea

National Court Crime

February 6, 2025 | Jacob Borg

<https://timesofmalta.com/article/notary-jailed-seven-years-misappropriating-funds-85-clients.1104787>