

MEMORANDUM BY THE ACTING MINISTER OF JUSTICERules of Court under the Constitution of Malta

Section 47(7) of the Constitution (which deals with the enforcement of the protective provisions of the Constitution in respect of human rights) provides that rules of court making provision with respect to the practice and procedure of the Courts of Malta for the purposes of that section may be made by the person or authority for the time being having power to make rules of court with respect to the practice and procedure of those Courts, and shall be designed to secure that the procedure shall be by application and that the hearing shall be as expeditious as possible.

2. This provision is by section 96(3) of the Constitution made applicable to the Constitutional Court.

3. The Rule Making Board constituted under section 30 of the Code of Organization and Civil Procedure have now prepared two sets of Rules of Court, viz.

- (a) the Fundamental Rights and Freedoms Rules of Court, 1964, under section 47 of the Constitution and
- (b) the Her Majesty's Constitutional Court Rules of Court, 1964, under sections 47 and 96 of the Constitution.

4. The Crown Advocate-General has discussed with the Chief Justice and recommends their approval. They are simple and concise, limiting their scope to essentials, and eschew excessive detail formality.

5. Under section 30 of the Code of Organization and Civil Procedure, Rules of Court are subject to the approval of the Governor-General and come into force on the day of their publication in the Government Gazette.

6. Hon. Ministers are therefore invited to advise the Governor-General to approve the subjoined Rules of Court so that they may be published in the Government Gazette of tomorrow, 10th November, 1964.

9th November, 1964.

THE CONSTITUTION OF MALTA

Fundamental Rights and Freedoms Rules of Court, 1964

Date of commencement: 10th November, 1964

IN exercise of the powers conferred by section 47 of the Constitution of Malta and by section 30 of the Code of Organization and Civil Procedure (Cap. 15) and of all other powers enabling it in that behalf, the Rule-making Board constituted under the said Code has made the following Rules of Court, which have been approved by His Excellency the Governor-General:-

Citation. 1. These Rules may be cited as the Fundamental Rights and Freedoms Rules of Court, 1964

Procedure before the Civil Court First Hall to be by application. 2. Proceedings before Her Majesty's Civil Court, First Hall, under subsection (1) of section 47 of the Constitution of Malta shall be instituted by application.

Contents of application. 3. (1) The application shall state concisely and clearly the facts out of which the complaint arises and shall indicate the provision or provisions of the Constitution alleged to have been, to be or to be likely to be contravened.

(2) The application shall also specify the redress sought by the applicant:

Provided that it shall be lawful for the Court, if the application is allowed, to give any other redress within its jurisdiction which it may consider to be more appropriate.

(3) Default of compliance in the application with the requirements of paragraphs (1) and (2) of this Rule shall not render the application null: but the Court may, in any such case, order the applicant to file within such time as the Court shall fix, a note containing the particulars required and the costs of such order shall be borne by the applicant.

Service of application and fixing of date for hearing.

4. The application shall be served on the defendant without any avoidable delay and the Court shall set down the application for hearing at any early date, in no case later than eight working days from the date of the filing of the application.

Reference of questions by other Courts.

5. (1) Where a question is referred to Her Majesty's Civil Court, First Hall, as provided in subsection (3) of the said section 47 of the Constitution of Malta, the order of reference shall state concisely and clearly the facts of which the question arises and indicate the provision or provisions of the Constitution the contravention of which is alleged.

(2) Where any such reference has been made it shall be the duty of the Registrar to ensure that the record of the proceedings is brought before Her Majesty's Civil Court, First Hall, without any delay.

(3) Her Majesty's Civil Court, First Hall, shall, upon any such reference, set down the question for hearing at an early date, in no

case later than eight working days from the date on which the record is brought before it and shall cause notice of such date to be given to the parties.

Application of  
Code of Organi-  
zation and  
Civil  
Procedure.

6. Subject to these Rules, the provisions of the Code of Organization and Civil Procedure relating to the practice and procedure before Her Majesty's Civil Court, First Hall, in the exercise of its ordinary jurisdiction shall apply to that Court in the exercise of its jurisdiction under the said section 47 of the Constitution of Malta, but so as to ensure that, consistently with the due and proper administration of justice, the hearing and disposal of the case shall be as expeditious as possible.

## THE CONSTITUTION OF MALTA

Her Majesty's Constitutional Court Rules of Court, 1964

Date of Commencement: 10th November, 1964

IN exercise of the powers conferred by sections 47 and 96 of the Constitution of Malta and by section 30 of the Code of Organization and Civil Procedure (Cap. 15) and of all other powers enabling in that behalf, the Rule Making-Board constituted under the said Code has made the following Rules of Court, which have been approved by His Excellency the Governor-General:-

Her Majesty's

Citation.

1. These Rules may be cited as the/Constitutional Court Rules of Court, 1964.

Proceedings to be by applications.

2. Proceeding before H.M.'s Constitutional Court in the cases referred to in subsection (2) of section 96 of the Constitution of Malta shall be instituted by application.

Cases falling under section 96(2)(a) of the Constitution.

3. (1) In the cases referred to in paragraph (a) of the said subsection (2) of section 96 of the Constitution of Malta, the application shall state, concisely and clearly, the circumstances out of which the question arises; the demand and the provision or provisions of the Constitution or of any other law on which the applicant relies.

(2) The application shall be served on the defendant without any avoidable delay and the Court shall set down the application for hearing at an early date, in no case later than eight working days from the date of the filing of the application.

Cases falling under section 96(2)(b), (c) and (d) of the Constitution.

4. In the cases referred to in paragraphs (b), (c) and (d) of the said subsection (2) of section 96 of the Constitution of Malta, the application shall state concisely and clearly the circumstances out of which the appeal arises, the reasons of appeal and the prayer for the reversal or, in specific terms, variation of the decision appealed from.

Default of compliance with requirements of Rules 3(1) and 4.

5. Default of compliance with the requirements of paragraph (1) of Rule 3 or of Rule 4 shall not render the application null; but the Court may, in any such case, order the applicant to file within such time as the Court shall fix, a note containing the particulars required and the costs of such order shall be borne by the applicant.

Time for appeal.

6. (1) In the cases referred to in paragraphs (b) (c) and (d) of the said subsection (2) of section 96 of the Constitution of Malta, the appeal shall be made within eight working days from the date of the decision appealed from.

(2) The application of appeal shall be served on the respondent without any avoidable delay and the respondent may file a written reply within six working days of the date of service.

Abridging  
time for  
appeal.

7. The Court by which a decision subject to appeal to Her Majesty's Constitutional Court is given may in urgent cases upon a demand, even verbal by any of the parties immediately upon delivery of such decision, abridge the time for making the appeal or for the filing of a reply.

If no such demand is made by any of the parties immediately upon the delivery of the decision, the parties may make such a demand by an application upon which the Court which gave the decision shall, after summarily hearing the parties if it thinks necessary, give the requisite order.

Fixing early  
day for  
hearing.

8. On the filing of the reply by the respondent within the time limited therefor or if no such reply is filed on the expiry of such time, the Constitutional Court shall fix an early date for the hearing of the appeal, in no case later than eight working days from the expiry of the said time.

Reference of  
questions.

9. (1) In the cases referred to in the proviso to the said subsection (2) of section 96 of the Constitution of Malta the order of reference shall state concisely and clearly the circumstances out of which the question arises and the terms of such question.

(2) When any such reference has been made, it shall be the duty of the Registrar to ensure that the record of the proceedings is brought before the Court to which the reference is made without any delay.

(3) The Court to which the reference has been made shall, upon any such reference, set down the question for hearing at an early date, in no case is later than eight working days from the date on which the record is brought before it and shall cause notice of such date to be given to the parties.

Expeditious  
hearing and  
disposal of  
case.

10. Once a case has been set down for hearing the Court shall ensure that, consistently with the due and proper administration of justice, the hearing and disposal of the case shall be as expeditious as possible.

Application  
of Code of  
Organization  
and Civil  
Procedure.

11. Subject to these rules, the provisions of the Code of Organization and Civil Procedure relating to the practice and procedure of Her Majesty's Court of Appeal shall mutatis mutandis apply to Her Majesty's Constitutional Court.