

**LECTURES IN**  
*ADMINISTRATIVE LAW*  
VI

Robert Musumeci

# Biography



Dr Robert Musumeci obtained a PhD in Law from the University of Malta with his dissertation entitled '*Judicial Interpretation of Maltese development planning law. Eliciting the added value*' after having been previously selected by the same University for the prize of Best Doctor of Laws Thesis Award in 2016 for his work entitled '*The Development Planning Act 2016 – A critical Appraisal*'. Prior to being admitted to the Maltese Bar, Dr Musumeci had graduated as a *perit* in 1997 and then moved on to also obtain a Masters Degree in Conservation Technology in Masonry Buildings in 2004. He is a former chairperson of the Building Industry Consultative Council (BICC) and was later appointed as a government consultant in the reform which led to Malta Environment and Planning Authority's demerger, the establishment of the Lands Authority, the introduction of a regulatory framework for Estate Agents, the drafting of the constitutional amendments pertaining to the Gender Balance in Parliament Reform and the setting up of the Building Construction Authority. Dr Musumeci is a senior lecturer in planning law and administrative law at the University of Malta. He also authored the book '*Selected Principles of Maltese Planning Law*' (Kite Publications, 2021). Dr Musumeci is the first to hold warrants to practice both as a lawyer and a *perit* in Malta.

## Administrative Acts

### What defines “An Administrative Act”?

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To understand the concept of administrative acts, it is necessary to refer to the definitions provided in local legislation. Two instances of such definitions can be found in Maltese law, that is to say one in **Chapter 12** and another in **Chapter 490**. According to **Article 469A** in **Chapter 12**, "administrative act" is defined as follows:

*"administrative act" includes the issuing by a public authority of any order, licence, permit, warrant, decision, or a refusal to any demand of a claimant, but does not include any measure intended for internal organization or administration within the said authority:*

*Provided that, saving those cases where the law prescribes a period within which a public authority is required to make a decision, the absence of a decision of a public authority following a claimant's written demand served upon it, shall, after two months from such service, constitute a refusal for the purposes of this definition.'*

According to **Chapter 490**, "administrative act" is defined as follows:

*"administrative act" includes the issuing by the public administration of any order, licence, permit, warrant, authorisation, concession, decision or a refusal to any demand of a member of the public, but does not include any measure intended for internal organisation or administration within the said public administration.'*

The first definition, found in **Article 469A** of **Chapter 12**, encompasses the issuance of orders, licenses, permits, warrants, decisions, or refusals by a public authority in response to a claimant's demand. However, it excludes any measure intended for internal organization or administration within the authority, with the caveat that the absence of a decision following a claimant's written demand constitutes a refusal after two months.

The second definition, found in **Chapter 490 (The Administrative Justice Act)**, includes additional terms such as authorizations and concessions. It encompasses the issuing of orders, licenses, permits, warrants, authorizations, concessions, decisions, or refusals by the public administration in response to a demand from a member of the public. Similarly, it excludes any measure intended for internal organization or administration within the public administration.

I will allocate a distinct section to elaborate on the significance of 'measures intended for internal organization or administration within the public administration.'

Meanwhile, there are some subtle differences between these two definitions:

Firstly, the first definition specifies certain terms like "order, license, permit, warrant, decision, or refusal," while the second definition includes additional terms such as "authorization" and "concession." This expands the range of actions or responses that can be considered administrative acts under the second definition.

Secondly, the first definition refers to the "demand of a claimant," indicating that it pertains to specific individuals or entities making a claim or request to a public authority. In contrast, the second definition refers to the "demand of a member of the public", prima facie suggesting a broader scope that encompasses any individual from the general public making a demand or request to the public administration. With that being said, I want to emphasize that the Administrative Review Tribunal (ART) established to review administrative acts in terms of the mentioned **Administrative Justice Act** can only be sought as a remedy when a law explicitly directs you there in cases of grievance. It's essential, therefore, to clarify that the ART isn't an open platform for the 'general public' as the second definition of 'administrative decision' might suggest.

Meanwhile, the first definition explicitly states that the absence of a decision after

two months constitutes a refusal for the purposes of the definition, while the second definition does not.

Furthermore, the second definition specifically includes the terms "authorization" and "concession", which are not present in the first definition.



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