

**LECTURES IN**  
*ADMINISTRATIVE LAW*  
XXVI

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.

## Time to challenge the executive

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If we backtrack to a prior section titled 'Let down by the Public Administration', I highlighted those categories of circumstances where individuals might perceive themselves as being treated unfairly by the public administration.

Instances that provoke a sense of grievance against the public administration may involve dissatisfaction with the results of administrative acts, the unauthorized implementation of legislative measures by the Executive in the form of subsidiary legislation, which contradicts the primary parent Act, or even worse, the **Constitution**, civil torts arising from executive negligence or a lack of due care, and breaches of civil contractual obligations.

Allow me to reiterate with some typical scenarios to ensure we don't lose track:

Examples of administrative acts that individuals affected by those actions would likely be dissatisfied with include the rejection of planning permits by the Planning Authority and the issuance of apparently unfair or unlawful orders, such as administrative fines for late tax filing.

Individuals may also feel unjustly treated when the executive introduces subsidiary legislation that contradicts the intended purpose of primary laws or even violates constitutional principles and as a result, they, themselves, stand to lose. For instance, envision a person accused of wrongdoing for not complying with regulations set by a Minister through a Legal Notice. However, the individual argues that these rules conflict with the parent Act or even the **Constitution** and should not be applied to them. In essence, this scenario involving unauthorized legislation falls under the category of 'legislative acts'.

Individuals might perceive wrongdoing when the executive neglects its duty of

care, leading to financial losses. An illustrative case is that of car owners facing vehicle damage due to inadequate road maintenance. In this scenario, where an individual's grievance stems from executive negligence, the concept of 'civil tort' comes into play.

Lastly, individuals might feel aggrieved due to the public administration reneging on agreements. Imagine a cleaning company securing a waste collection contract with a Local Council but encountering unexplained payment delays, clearly indicating a breach of agreement.

Looking ahead, my focus will shift towards conducting an in-depth exploration of the remedies that can be utilized to address the grievances mentioned above.



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