

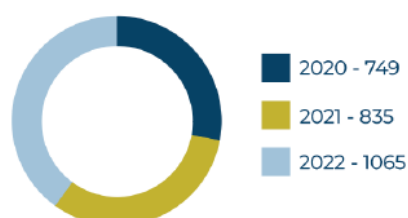
## Feedback on government's justice reform proposals published in public consultation document: "Riforma fis-Sistema tal-Kumpilazzjonijiet u Rinviji"

At one time or other, many are those who may experience or have to use the court services. The prevailing national verdict appears to be that Malta's judicial procedures are terribly slow and need to be drastically shortened and made more efficient. The current slow pace of the courts is amply illustrated by data published in the public consultation document "Riforma fis-Sistema tal-Kumpilazzjonijiet u Rinviji" and which is reproduced in Tables 1 and 2 below.

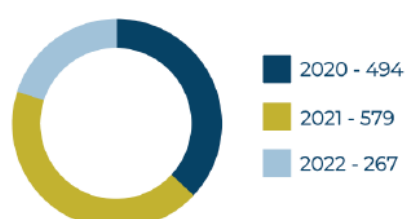
Justice delayed is after all justice denied. It also unnecessarily adds to the huge financial, time and emotional cost incurred by all involved.

**Table 1: Number of court case compilations  
initiated and concluded  
in 2020, 2021 and 2022.**

### **KEMM INFETHU KUMPILAZZJONIJET** Ammont ta' kumpilazzjonijiet li nfethu



### **KEMM INGHALQU KUMPILAZZJONIJET** Ammont ta' kumpilazzjonijiet li ngħalqu



### **Kemm hemm pendenti**

GHADD TOTALI TA' KUMPILAZZJONIJET PENDENTI FI TMIEM L-2022: **3282**

**Source:** Page 11, "Riforma fis-Sistema tal-Kumpilazzjonijiet u Rinviji" accessed at <https://digitaljustice.gov.mt/wp-content/uploads/2023/05/Konsultazzjoni-Pubblika-En-Version-Digital-1.pdf> accessed on 17th May 2023

**Table 2**  
**Pending Compilations by Year Started (Tabella 2)**  
**Median Duration of Compilations by type of Compilation (Tabella 3)**

**Tabella 2: Il-volum ta' kumpilazzjonijiet pendenti tal-2022 miġbur skont is-sena**

	CHADD
Sentejn (2021, 2022)	1184
Minn 3 sa 5 snin (2020 – 2018)	800
6 snin (2017)	122
7 snin (2016)	104
8 snin (2015)	120
9 snin (2014)	112
10 snin (2013)	106
10 snin + (2012 – 1986)	734

**Tabella 3: Medja kemm iddum kumpilazzjoni**

*Proviso:* Minn 3282 każ, 291 każ m'għandhomx data relattiva għad-dati tas-seduti. Għalhekk id-data li ġejja qed tiġi kkalkulata fuq 2992 każ.

	Każijiet	Minimu*	Massimu*	Medja	Medjan
(G)** KUMPILAZZJONIJET - DROGI	17	0	4455	853	1448
(G)** KUMPILAZZJONIJET - OĦRA	151	0	6406	663	1005
KUMPILAZZJONIJET - DROGI	247	0	8255	1693	3034
KUMPILAZZJONIJET - OĦRA	2578	0	8484	3586	2160

\* Ġranet \*\* Għawdex

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**Source:** Pages 12-13, “Riforma fis-Sistema tal-Kumpilazzjonijiet u Rinviji” accessed at <https://digitaljustice.gov.mt/wp-content/uploads/2023/05/Konsultazzjoni-Pubblika-En-Version-Digital-1.pdf> accessed on 17th May 2023

1. While greatly overdue, the authorities’ efforts to initiate the much-needed justice system reform are welcomed and commended. Government is however urged, to expeditiously undertake its proposals to improve criminal case proceedings, and to urgently bring about reform in civil court cases as well.

As outlined in the public consultation document titled “Riforma fis-Sistema ta’ Kumpilazzjonijiet u Rinviji – Dokument għall-Konsultazzjoni Pubblika”, justice reform needs to be based on four main pillars.

## Re Pillar 1: Making legislative amendments

2. **Most consumers who gave their input state they agree with the main legislative amendments being proposed by the authorities in the public consultation document, namely:**
  - **Limiting the compilation of evidence undertaken at the start of criminal cases to a maximum of one year.** Where feasible, skip the compilation of evidence all together. **These measures would greatly expedite processing the large back-log of criminal cases.** (As illustrated by the tables given above, the current average compilation time for drug cases is of about four and a half years while for other criminal cases the average is of 10 years, with some cases even taking 23 years! Consequently, those accused of criminal offences can spend years attending court sittings before their case even reaches the trial stage.)
  - **Scrapping the process of Referrals, thus doing away with the case file going back and forth from court to AG’s Office with six-week pause intervals.**
  - **Introducing a plea-bargain mechanism** whereby an accused may get a reduction of two degrees if they admit at the start of the court case and of one degree if admission is during the court case.
  - **Giving victims of crimes the right to “actively participate during proceedings”.** The authorities are urged to specify in what ways victims of crimes may actively participate, and how the rights of victims of crime will be better upheld. The current situation of denying this right to crime victims is an injustice which should be rectified forthwith.
  - **Allowing magistrates to preside over criminal cases that carry prison sentences of up to 12 years,** instead of the current six years.

**Where feasible, the introduced justice reforms should become applicable to criminal cases that are currently underway as well.** For example, reducing the papers that must be signed by a magistrate is an initiative that should be also adopted in already-existing criminal cases. This would expedite these cases with benefits arising to all involved.

Re Proposed Pillars 2, 3 and 4.

2. **Making administrative and operational changes**
3. **Ensuring adequate court facilities and human resources**
4. **Providing the necessary training to those working within the judiciary system and the Office of the Attorney General**

The Council of Europe in the European Commission for the Efficiency of Justice report in 2020, clearly illustrates that Malta's courts are taking much longer to process and clear court cases than the EU average. (See Tables 3 and 4 below.)

<b>Table 3: Disposition Time* by Court Case</b>		
<b>Type of Court Cases</b>	<b>Malta Average (Days)</b>	<b>EU Average (Days)</b>
Civil Cases 1 <sup>st</sup> Instance	440	201
Civil Cases 2 <sup>nd</sup> Instance	1,119	141
Criminal Cases 1 <sup>st</sup> Instance	298	122
Criminal Cases 2 <sup>nd</sup> Instance	534	104
Administrative Cases 1 <sup>st</sup> Instance	1,056	241
<b>Source:</b> The 2020 Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) Report		
* <b>Disposition Time</b> is defined as the theoretical time necessary for a pending case to be resolved, taking into consideration the current pace of work.		

<b>Table 4: Pending Court Cases</b>		
<b>Court Cases</b>	<b>Malta (Per 100 persons)</b>	<b>EU median (Per 100 persons)</b>
Civil Cases 1 <sup>st</sup> Instance	2.045	1.16
Criminal Cases 1 <sup>st</sup> Instance	2.436	0.4
Administrative Cases 1 <sup>st</sup> Instance	0.082	0.2
<b>Source:</b> The 2020 Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) Report		

The European Commission for the Efficiency of Justice 2020 report additionally clearly shows that **backlogs and slow processing** afflicts not only criminal cases but also civil and administrative cases. Hence efficiency and expediency reforms are needed across the judiciary board, not just for criminal cases.

3. **To help reduce case clearance and disposition time for all types of court cases, it is proposed that authorities undertake a SWOT analysis of the current court procedures, including a stock-take of the courts' current human, digital, building and other resources.** Based on the findings, the courts should be equipped with the needed resources required to become more efficient, effective, and fair in delivering justice to the people of Malta. Justice delayed is after all justice denied.

Various members of the judiciary have underlined that a root cause of slow-moving court cases is that the members of the judiciary and trained personnel, as well as the number of halls, are vastly inadequate for the courts' workload. Thus, it is critical that government offers the right financial incentives to attract more magistrates and more court personnel, who should be trained to ensure the required competency. More halls to hear cases simultaneously also need to be made available.

4. **Adequate training also needs to be given to officials working within the judiciary system and at the Office of the Attorney General.**
5. To solve the severe court case backlog, **the hours of the courts also need to be extended** – both to hear cases and to have adequate administrative follow-up to the court hearings.

## Other public concerns about the current judicial system.

### 6. Need to ensure appropriate use of the suspended sentence mechanism

Increasingly, members of public are expressing concern about the fact that persons found guilty of a second crime when out on suspended sentence are often merely being meted out a second suspended sentence, rather than being sent to jail to do time for the second crime as well as the suspended sentence. **The authorities need to provide the legal framework to ascertain that if a person is found guilty of a second crime after getting a suspended sentence, the courts will send the accused to prison to serve both the suspended sentence and the sentence received for the second crime.**

### 7. Need to require persons found guilty of a crime or of a substance-related court case, to undertake compulsory help-programmes.

### 8. Need to make a suspended sentence conditional on the person in question undertaking set community work and any required help-programme.

If the person in question fails to undertake the required community work or help-programme the person would be liable to undertake the sentence which was suspended.

### 9. Need to strengthen the legislative penalties contemplated for causing harm to others through reckless driving or driving under the influence.

As magistrates have themselves highlighted, the current maximum penalties envisaged by the current legislation for such crimes is binding the court's hands. The public therefore urges the authorities to increase the penalties due for causing grievous harm or death inflicted by dangerous driving or driving under the influence. A maximum penalty of one-year prison sentence, suspended to boot, withholding a driving licence for a maximum of three years, and a mere financial penalty of less than 2,000 Euros for such crimes are not only an insult to the victims and their families, but as recent court cases have revealed, also leaves such dangerous drivers out on the road to inflict further harm to other members of society, and ultimately make the situation worse for themselves.

## In conclusion

Many members of the public feel frustrated and let down by the courts. In addition to cases that take much longer than the EU average, they perceive a lack of the spirit of justice in the system. It is disconcerting to see that persons who commit certain crimes are often let off the hook because of 'errors' on the part of prosecution or the police. Additionally, the Courts are often reported to have delivered light sentences that do not justly reflect the gravity of the crime committed.

The government is thus urged to catalyse the needed justice reforms with urgency -- for both criminal and civil cases -- to ensure that the rule of law and justice are upheld in Malta.

