

National

Landmark rulings confirm suspect's right to lawyer during interrogation

Three landmark Constitutional Court judgments in the past days confirm that suspects denied access to a lawyer during police interrogation had their human rights breached, setting a precedent that can have ripple effects on several pending criminal cases, according to lawyers.

The judgments delivered in three separate cases – Alvin Privitera, Mark Lombardi and a minor whose name cannot be published – can now only be challenged in the European Court of Justice.

However, the rulings by the Maltese courts are premised on definitive judgments delivered by the Strasbourg court, which effectively makes their challenge very unlikely.

A new law granting suspects access to a lawyer during investigations only came into force in February last year. However, the implication of the Constitutional Court judgments is that anyone facing criminal proceedings started before

the law came in force could now potentially claim breach of human rights, criminal lawyers said.

Nationalist MP and criminal lawyer Franco Debono, who battled all three cases, one of them with fellow lawyer and Labour MP José Herrera, said the judgments could have serious implications for a number of cases in court right now, especially where the only evidence is the statement itself, as is the case of Mr Privitera and the minor mentioned earlier.

The Privitera judgment is the first formal declaration in a final and definitive judgment by the highest court of Malta that denial of access to a lawyer during arrest is a breach of the fundamental human right to a fair hearing.

Dr Herrera, criminal lawyer and Labour spokesman for justice, was blunt in his predictions. If a statement, in cases where there was no other evidence, had been proven to be in breach of human rights

the case would fold, Dr Herrera said.

Another criminal lawyer, Joe Giglio, was also concerned about the implications of the judgments, pointing out the justice system was in such a situation because nothing was done for so long.

The judgments vindicate the campaigning done by Dr Debono for the law to come in force, which had been passed in Parliament in 2002 by unanimous approval but left dormant for years before being put in force in 2010.

The matter was at the heart of Dr Debono's absence from Parliament in December 2009 when the government was left without a majority for the first time, albeit on a minor vote. The law was put in force a few weeks later.

There was speculation at the time that his absence was somehow connected to the possible re-entry to Parliament of district candidate Louis Galea, after John Dalli was

appointed European Commissioner.

Dr Galea had lost his seat to Dr Debono in the fifth district in the previous election. However, Dr Debono had vehemently denied the rumours and dismissed them as fictitious. Comments from sources carried by The Times at the time remained unconfirmed and unfounded and, in any case, Dr Galea did not contest the by-election for the vacant seat.

"Now, I hope, people can understand why this was so important to democracy, justice and respect for institutions and fundamental human rights since there are now three Constitutional Court definitive judgements that declare the situation before the law came in force breached suspects' human rights," Dr Debono said.

At the time of his absence for the vote, Dr Debono had also tied this issue to what he described as the dignity of Parliament, in that laws

passed should not lie dormant for years and should be put in force and that backbenchers' calls should not be ignored, especially when they concerned serious issues like fundamental human rights. Criminal lawyer Giannella Caruana Curran said the judgments effectively entrenched the law granting access to a lawyer but she pointed out that although it was a step in the right direction the law should still be updated to include disclosure.

In fact, lawyers complained that with the new law, they were often being called to give advice in the dark because, unlike in other countries, the police were not obliged to discuss (reveal) its evidence with suspects' legal representative.

Dr Debono too urged further changes, especially regarding disclosure as well as audio and, possibly, video recording of police interrogations, not only in the interest of suspects but also of the investigating officer.

Emergency services assured passage into Valletta

Claudia Calleja

Emergency and delivery services would have access to Valletta's City Gate apartments once demolition works started in the area, Transport Malta said.

Earlier this week, residents of the block overlooking Freedom Square expressed concern that new traffic arrangements would mean ambulances, fire engines and other services might not be able to reach them.

The government housing block has entrances overlooking the square and Pope Pius V Road, above City Gate. When demolition works start on City Gate on May 2, this road, a main entry route into Valletta, will no longer be there. Residents feared this would mean access to their apartments, from a pathway accessed through Pope Pius V Road, would be closed, blocking out emergency and delivery services.

A Transport Malta spokesman said such services would have access to the block because Pope



Residents of the apartment block next to City Gate need not worry as emergency vehicles will be able to reach them, according to Transport Malta. Photo: Matthew Mirabelli

Pius V Street would not be completely demolished.

Temporary traffic arrangements would be in place as from May 1 until works on the opera house

and Parliament Square are completed. Until then, vehicles rendering a service and emergency vehicles will enter the Hastings Gardens area through Castille

Place, St Paul Street, Melita Street, a short stretch of Republic Street, Ordnance Street, around St John's Cavalier and on to the remaining part of Pope Pius V Road outside

the residential block. While there will be limited entry times for vehicles rendering services (such as gas delivery trucks and refuse collection trucks), emergency vehicles will be allowed access at all times.

Once work on the opera house and Parliament Square is completed, vehicles rendering a service and emergency vehicles would pass through Castille Place and Ordnance Street, the spokesman said.

According to new traffic arrangements, as from May 1, motorists entering Valletta will drive into the capital using two main routes: St Paul Street (near *Auberge de Castille*) and St Mark Street (further up from Biago Steps).

The road configuration within the city will remain largely the same, except for a few changes. Traffic through Archbishop Street will flow in the opposite direction to allow cars entering from St Paul Street to be able to cut through the capital. Residents close to City Gate and Hastings Gardens will be able to circle Vincenti Buildings through the narrow streets.

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AND EVERYTHING ON WHEELS

Out with The Sunday Times
on April 24th 2011

autoguide is published by Executive Services Ltd.