Access to Justice in Malta in relation to Access to Information Cases

11th Meeting of the Task Force on Access to Justice
27-28th February 2018
1. Access to Environmental Information
2. The Information and Data Protection Commissioner
3. The Environment and Planning Review Tribunal
Access to Environmental Information


- The review procedures are twofold:
  - The Information and Data Protection Commissioner (Regulation 12)
  - the Environment and Planning Review Tribunal (Regulation 11A)
The Information and Data Protection Commissioner

- Established under the Data Protection Act (Cap. 440)
- Independent and impartial
- There is no cost to appeal to the Information and Data Protection Commissioner under S.L. 549.39
- Further information is made available online: https://idpc.org.mt/en/Pages/Home.aspx
The Information and Data Protection Commissioner

- **Information notice**: requiring the competent authority to provide the Commissioner with information in such manner and time as may be specified.

- In case of failure to comply, the Commissioner may use the powers of entry and search.

- **Decision notice**: specifying the Commission’s final decision and any steps which must be taken by the authority and the period within which they must be taken.

- **Enforcement notice**: requiring the authority to take certain steps as may be specified therein in order to ensure compliance. The notice will also contain particulars of the right of appeal.

- Failure to comply shall be regarded as an offence, and the Commissioner may issue an administrative fine.
The Information and Data Protection Commissioner (Appeal)

• The applicant or the authority may appeal from the Commissioner’s decision to the **Information and Data Protection Appeals Tribunal** within 20 working days.

• The Tribunal has the same powers as the ordinary Civil Courts of Malta. E.g. may summon any person to give evidence and produce documents; appoint experts to advise on technical matters.

• Judgements of the tribunal are found online from the **IDPC website**.

• Decisions of the Information and Data Protection Appeals Tribunal shall be subject to further appeal to the **Court of Appeal** within 30 days.
The EPRT was set up in 2010 and is regulated by the Environment and Planning Review Tribunal Act (Cap. 551).

It has jurisdiction to hear appeals on any decision taken by the Environment and Resources Authority (ERA) – which include decisions over access to information requests.

Any person may appeal without the need to prove juridical interest:

“When an appeal has been lodged with the Tribunal by any party other than the applicant in terms of this Act, such a person need not prove that he has an interest in that appeal in terms of the doctrine of juridical interest, which doctrine shall not apply to such proceedings, but such a person shall submit reasoned grounds based on environmental considerations to justify his appeal.”
• First hearing should be held within 6 working days

• The fee to appeal any decision of ERA is €150 + administrative fee of €50

• Proceedings are open to the public

• Decisions are available online: http://www.eprt.org.mt/en/home

• Power to suspend execution of the Authority’s decision *pendent lite*, if it is satisfied that the execution can cause more harm than its suspension.
  
  – If it suspends the execution, final decision must be taken within 3 months
The Environment and Planning Review Tribunal

• The Tribunal must adhere to the principles of good administrative behaviour, including:
  – respect the parties’ right to a fair hearing,
  – respect the principles of natural justice, namely:
    (i) nemo judex in causa sua,
    (ii) audi et alteram partem

• Any party to the case may appeal from the EPRT to the Court of Appeal within 20 days of the decision
THANK YOU

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