

UFFIĊĠJU TAL-PRIM IMHALLEF



MALTA

OFFICE OF THE CHIEF JUSTICE

The Editor  
The Times  
Strickland House  
341 St Paul Street  
Valletta CMR 01

14 August 2007

Dear Sir,

I refer to the law report which appeared in yesterday's issue of your paper under the heading *Constitutional court raps lower court* (p. 6).

The heading is totally misleading. Appellate courts – the Constitutional Court, the Court of Appeal and the Court of Criminal Appeal – as well as any other court acting as an appellate court – e.g. the Court of Magistrates in deciding appeals from decisions of Commissioners of Justice – do not “rap” lower courts (or tribunals) when varying or reversing judgments delivered by those courts. It is not the function of appellate courts to rap lower courts, whether in the sense of reprimanding them or of inflicting some kind of censure or punishment. In finding that a lower court has erred, whether in law or in fact, and in clearly stating so in the judgment, appellate courts are simply expressing their opinion on the matter or matters raised in the application of appeal. Even if forceful or colourful language is used to bring home the logic behind that opinion, no reprimand or censure is implied. A careful reading of the reported judgment would have shown that in the instant case the Constitutional Court simply disagreed with the lower court in that it held that the remedy provided by that court was in conflict with certain provisions of the Code of Organisation and Civil Procedure, and that therefore other remedies were more appropriate.

Dr Marse-Ann Farrugia  
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