

GUSTIZZTA GENERAL ARTNA

THE REFORMS WE NEED



The Ġustizzja għal Artna campaign was launched in response to the Government's presentation of Bills 143 and 144, which threaten to dismantle nearly all planning safeguards, along with three draft Legal Notices that would result in an almost blanket regularisation of all forms of planning and development illegalities.

The campaign's call for the immediate withdrawal of this alarming legal package has always been accompanied by the long-standing demands of environmental, community, and agricultural organisations for a genuine planning reform, one that truly meets the needs of our country and its people and addresses the planning challenges that have persisted for many years.

While reiterating our demand for the immediate withdrawal of the so-called planning reform presented by the Government in 2025, we are presenting four key proposals that should form the foundation of a genuine planning reform, addressing four areas: planning appeals, enforcement, sanctioning in ODZ, and the reclassification of land as ODZ.

These points are by no means exhaustive. They do not, for example, address the many defective planning policies, such as those relating to hotels, design, sanitation, and rural development, which also require urgent reform. The proposals in this document outline overarching principles that must be included in any reform aimed at serving the common good rather than the interests of a few developers.

SUSPEND WORKS DURING APPEALS

Malta's planning law permits the execution of an authority's decision even while that decision is under appeal, an exception not found in other areas of law. In practice, this most often means that once a permit is issued by the Planning Authority (PA), development works can commence immediately, even while the decision is being challenged before the Environment and Planning Review Tribunal (EPRT) and the Courts.

For many years, organisations and communities have called for this anomaly to be addressed, but to no avail.

This situation has led to numerous cases where development works are completed or nearly completed by the time their permits are found to have been issued irregularly by the PA, and revoked by the Courts. In such instances, the building becomes illegal; however, effective enforcement action is not taken to remove it. Instead, this often leads to further irregular manoeuvres aimed at securing retrospective sanctioning.

Consequently, organisations, residents, and farmers bear the financial and organisational burden of challenging flawed decisions, only to be left without an effective remedy. This also creates significant uncertainty for property buyers, who may purchase properties lacking a definitive and legally secure permit.

OUR PROPOSAL: All works authorised by a development permit should be suspended while an appeal is pending before the EPRT and the Courts. At the same time, clear time limits should be established for the resolution of appeals. These limits must be reasonable, ensuring both the timely conclusion of proceedings and the ability of all parties to adequately prepare and present their case.



REMOVE ILLEGALITIES

Malta's planning system has fundamentally failed in enforcement, leading to widespread illegal development. This failure is now being used to justify sweeping regularisation measures, effectively normalising illegality rather than addressing it.

The problem is embedded within the planning framework itself - its laws, policies, and institutions - which allow offenders to evade meaningful consequences and, in many cases, even benefit from their actions.

Currently, when an enforcement notice is issued, it carries a daily fine that is capped, meaning that no further fines accrue once the ceiling is reached. Crucially, the offender may appeal both the notice and the fine, and enforcement is suspended during the appeal process before the EPRT. These proceedings, opaque and inaccessible, may result in the EPRT reducing or even waiving the fines entirely.

The system further enables abuse: individuals who have committed illegalities can apply to the PA to sanction the development. While such an application is pending, enforcement action is again suspended.

Even when a development is definitively declared illegal, the PA retains full discretion on whether to take direct action to remove it, an option that is rarely exercised.

A common concern for citizens reporting illegalities, especially regarding outside catering platforms and noise, is the fragmentation of enforcement. It is often unclear which authority is responsible for what, and this allows authorities to pass the buck from one to another, with no one taking responsibility, whether it is the PA, the Malta Tourism Authority (MTA), the Lands Authority, or the Police.

The unchecked proliferation of planning illegalities reflects a lack of political commitment to address illegalities and is causing serious harm to Malta's natural and urban environments, as well as to its farmers and residents. It also sends a damaging message: that those who break the law for personal gain, at the expense of others, are ultimately rewarded by the system.

OUR PROPOSAL: Binding rules must be introduced to ensure that illegal developments are physically removed. Clear time limits should be established for the resolution of appeals against enforcement notices, and third parties should be able to participate in enforcement procedures and appeals. Once a final decision confirms that a development is illegal, the PA should be legally obliged to enforce its removal. This should be carried out either directly by the authority or by compelling the offender to do so, at their own cost. All fines accrued from the issuance of the enforcement notice up to the point of removal should remain payable. Additionally, there should be a one-stop shop for enforcement so that regulation and enforcement are not fragmented.

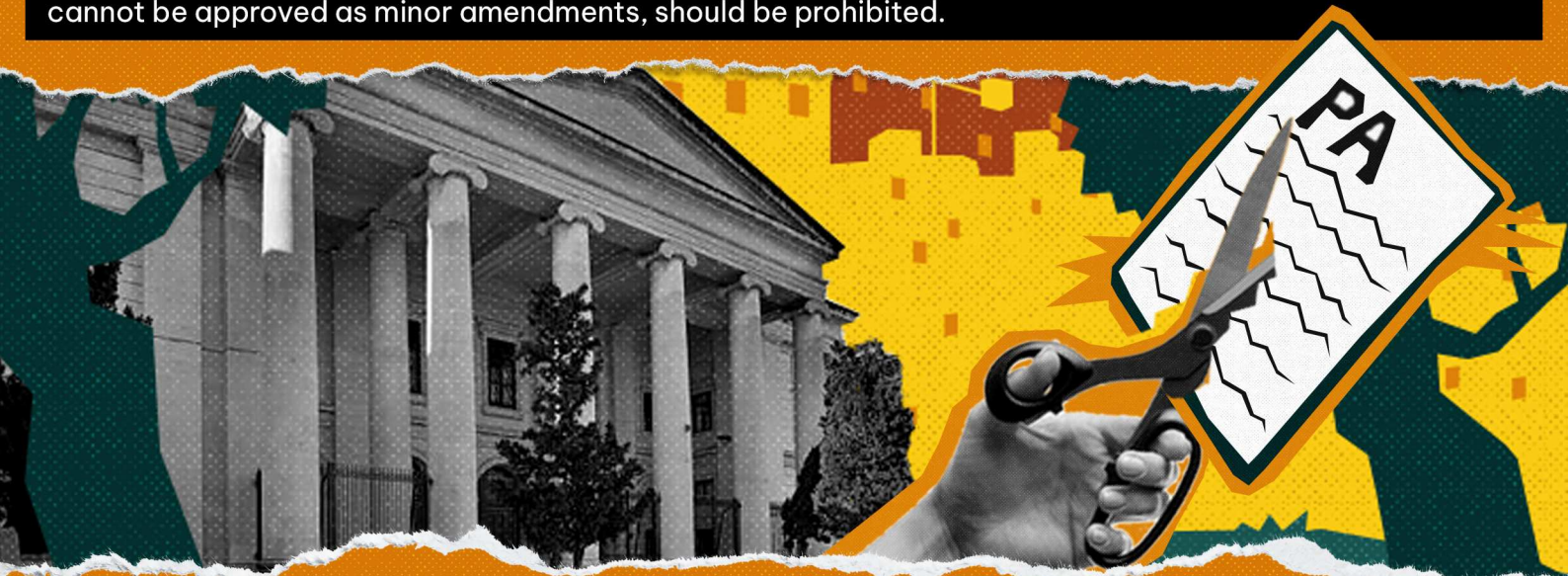


PROHIBIT SANCTIONING IN ODZ

Malta's planning system fosters a "build now, sanction later" mentality, even within Outside Development Zones (ODZ), which represent our increasingly diminished natural and agricultural landscapes. Under the current framework, individuals who construct illegally in ODZ areas are able to submit applications to the PA to make their development legal.

Between 2010 and 2015, this possibility for sanctioning ODZ illegalities built after 2008 was largely removed through the Environment and Development Planning Act. However, it was reintroduced with the enactment of the Development Planning Act in 2016, leading to a surge in applications seeking to sanction illegal developments in ODZ areas, ranging from villas and zoos to commercial establishments and hotels.

OUR PROPOSAL: The sanctioning of illegal structures in ODZ that were constructed after 2008, and that cannot be approved as minor amendments, should be prohibited.



RECLASSIFY LAND AS ODZ

The 2006 so-called "rationalisation exercise" incorporated over two million square metres of previously undevelopable land into development zones. While these areas were not automatically designated for development - since the PA must assess each site on a case-by-case basis - in practice, this exercise has been used as a blanket justification to permit extensive and dense construction, regardless of the land's agricultural, natural, social, or historical value.

At a time when concerns about quality of life and the preservation of essential open and agricultural spaces are increasingly pressing, Malta cannot afford to lose these two million square metres to unnecessary and harmful development projects.

OUR PROPOSAL: All areas of agricultural, natural, social, and historical value that were removed from the ODZ in 2006, and which have not yet been legally committed to development through approved applications, should be reclassified as ODZ and protected from construction.

