

Report on Case No OMB-26-7135

This is a report on the complaint which [OMISSIS] lodged with the Ombudsman against Identità on the renewal of the passport in the name of her minor son, [OMISSIS].

The complaint

1. [OMISSIS] (*complainant*) lodged a complaint with the Ombudsman on the 20th January 2026. The source of her alleged grievance was that the Maltese Embassy in Moscow, Russia, had failed to provide her with a travel document or a renewed passport for her minor son to enable both of them to return to Malta. These documents are issued by Identità but as the complainant and her son were living abroad, she had to utilise the service of Embassy officials in Moscow and, as such, she claimed that the Embassy officials were obliged to assist her in the procurement of these documents.

2. Complainant expressed her urgency to return to Malta for two reasons – because of her son’s desire to see his father and for safety because she resided in Rostov on Don which is close to the frontline in the Russia-Ukrainian conflict. Rostov on Don is in fact roughly 122 miles distant from the closest active front line in eastern Donetsk Oblast.

Facts and circumstances

3. Given the urgency of the case and given that the complainant and her son are Maltese citizens, this Office took a two-pronged approach. The Ambassador and the Consul of the Maltese Embassy and Identità were contacted telephonically. Further communication was conducted via electronic correspondence and telephone.

4. Complainant was also contacted telephonically. She said that the Maltese Embassy had informed her that her son's passport could only be renewed if her estranged husband, [OMISSIS], signed a consent for the renewal of his son's passport. Yet, [OMISSIS] was refusing to sign and thus consent to the renewal of his son's passport.

5. Both the Maltese Ambassador and Consul were adamant that they would not countenance anything less than the written consent of the husband to facilitate the passage of complainant and her son to Malta. In a communication which the Ministry of Foreign Affairs sent to the Embassy, sighted by this Office, it was made clear that it was necessary that the other parent (the father) gives his written consent to any travel document. The Embassy with the support of their colleagues at the Ministry of Foreign Affairs were bound by this rule. Identità confirmed as well that the legal situation in the normality of cases was such.

6. In an effort to cut through this impasse, this Office contacted the father and impressed upon him the need to give his consent. He readily agreed. Identità were informed of this, but, when he was contacted by an Agency official, he renegaded and refused to sign the application for the renewal of his son's passport.

7. Various attempts were made to persuade him to do the right thing to nought. Identità commendably took a proactive stance to resolve this issue. After consulting the Immigration Police, a solution was found in that the minor [OMISSIS] would travel to Malta with his mother via Istanbul with Turkish Airlines with the passports they had. This was communicated to the complainant by Identità officials and, then the complainant contacted the Maltese Embassy officials. The Embassy refused outright to support this course of action.

Considerations

8. The complainant and her son are Maltese citizens. The mother is a Maltese citizen by registration, and her son is a Maltese citizen by birth born during the marriage of [OMISSIS] and [OMISSIS].

9. The son was issued a Maltese passport by the Passport Office on the 21st February 2020. This passport expired on the 21st February 2022. The complainant who lives in Russia was informed that any renewal of the passport necessitated the consent of her husband. The spouses [OMISSIS] are reportedly *de facto* separated and passing through divorce proceedings. [OMISSIS] refused to consent to the renewal of his son's passport despite previous assurances.

10. This necessitated an alternative course of action which the Embassy refused to contemplate. It remained adamant that any solution to the provision of travel documents had to include [OMISSIS], specifically his signature. This was in spite of the fact that Identità, this Office and the Immigration Police insisted that citizens of Malta had the right to enter Malta and, in this, they should be assisted.

11. A Maltese citizen has the constitutional right to return to Malta. Article 44(1) of the Constitution of Malta states:

*“No citizen of Malta shall be deprived of his freedom of movement, and for the purpose of this article the said freedom means the right to move freely throughout Malta, the right to reside in any part of Malta, the right to leave and **the right to enter Malta**”*

The Fourth Protocol of the European Convention for the Protection of Human Rights and Fundamental Freedoms at Article 3(2) states:

“No one shall be deprived of the right to enter the territory of the state of which he is a national”.

The Immigration Act (Chapter 217, Laws of Malta) states that a citizen of Malta cannot be considered to be a “*prohibited immigrant*” in terms of Part IV of the Act.

12. It is manifestly clear that complainant and her son have the right to enter the territory of this country by virtue of their status as citizens of Malta. The Embassy and *a fortiori* the Ministry of Foreign Affairs could have assisted and not impeded the resolution of how the complainant, and her son could have reached Malta offered by the Police and Identità.

13. The Police have invariably facilitated the entry of Maltese citizens who do not have a valid Maltese passport. The solution offered was that the complainant takes a flight with an airline which reaches Malta from Russia. These are Turkish Airlines, Emirates and Qatar Airlines. These companies in cooperation with the Police have agreed to carry passengers who are Maltese citizens to Malta, that is the whole trip must

be on one of these carriers even when there are intervening stops on the way. This Office was informed that these airlines have without fail facilitated the return of these Maltese citizens who had difficulties as this complainant had. This was thwarted by the Embassy officials.

14. Despite the Maltese Embassy being informed of this by the complainant herself who was contacted personally by an official of Identità, the Ambassador refused to assist. The legal mantra that the husband, despite his refusal to do so, had to sign a consent form was considered to be an article of faith. The alternative way the Embassy suggested was a Court decree from the Maltese Courts which the complainant found impossible to do from Rostov.

15. This scenario which should have been acceptable was shot down by the Embassy. This Office definitely does not agree with the Maltese Ambassador, [OMISSIS], that the communication from complainant was “*perplexing and shows a murky situation*”. There was nothing perplexing and murky on the attempt of Identità and the Police to assist a Maltese citizen which, in our opinion, is the first and foremost function of our embassies abroad. Otherwise, why have them? Security in Malta and the entry of persons in Malta is the responsibility of the Immigration Police and, subsidiarily, Identità for the documentation necessary to attest to the citizenship or otherwise of those claiming to be citizens of Malta. It would have been an act of mercy as well to help the complainant and her ten year-old son to return to the country of which they are citizens.

Conclusion and recommendation

16. The result of this was that complainant remained in Russia. Ultimately it must be left to her choice whether to board an airline and come to Malta as advised by Identità and the Police. Yet, this complaint shows that the State which has the constitutional obligation to protect Maltese citizens abroad was found wanting. It would be unjust, however, not to mention and commend the Immigration Police and Identità in their efforts to assist the complainant and her son.

17. I find that the course of action taken by the Maltese Embassy was wrong. Complainant has not been protected by the State. On the contrary she has been abandoned and she will have to make her way to the country of which she is a citizen by applying for Russian documentation which, in this time of war, is difficult.

18. The Ministry of Foreign Affairs should fulfil its constitutional function to look after Maltese citizens and not make it impossible for a mother and her son to return. For this reason, I recommend that it will refund the expenses she will incur in obtaining the Russian documents and the air fares to Malta when she presents the receipts to the Maltese Embassy in Moscow.

Judge Joseph Zammit McKeon
Ombudsman

24 February 2026