

Report on Case No OMB-25-6334

This Final Opinion is consequent to the complaint submitted by [OMISSIS], holder of Greek passport number [OMISSIS] (the complainant), against the Periti Warranting Board regarding unreasonable delay by the Board in considering his application for mutual recognition of his qualification as a *Perit Inginier Civili* in Malta.

The complaint

1. The complainant is registered as a Professional Engineer with the Professional Engineer Association of Spain (AIPE), having registration number 00299. In view that he is seeking establishment in Malta, he submitted a request to the Warranting Board to recognise his professional qualification in Malta as a *Perit Inginier Civili* in accordance with Directive 2005/36/EC on the recognition of professional qualifications.
2. On 17 July 2025, the complainant lodged a complaint with this Office alleging that despite having submitted all the documentation required for his application, in accordance with the Periti Act, the Periti Warranting Board unnecessarily delayed the evaluation of his application and failed to provide clear responses to his enquiries. He contends that as a result, he is unable to legally

practice as a civil engineer in Malta and that this constitutes a violation of his rights under Directive 2005/36/EC.

3. The complainant further contends that due to this unjustified delay, he has been hindered from providing his professional services in Malta and forced to reject requests for engineering services from Maltese citizens. Additionally, he claims that he had to bear the financial burden of establishing himself in Malta without being able to work.

Fact and circumstances

4. The complainant emailed the Periti Warranting Board on 31 March 2025 requesting that his Senior Professional Engineer certification, awarded by the Professional Engineer Association in Spain is recognised in Malta. On 14 April 2025, the Periti Warranting Board requested that he follows the checklist reproduced below and submits his application through their website at <https://peritiwarrant.gov.mt/application-submission/>:

- “1. Proof of citizenship (National ID or Passport) of a member state of the EU or of permission to work in Malta under any other law*
- 2. If you are a registered professional at your home country, please submit details of this professional registration*
- 3. A certificate of good conduct from the Police authorities or in the case of applicants not previously domiciled in Malta a similar document from the competent authorities in the country of domicile*

4. *Proof of proficiency in an official language (a) evidence that at least one (1) of the applicant's qualifications referred to in regulations 4 or 5 were received in one (1) of the official languages of Malta; (b) a MATSEC certificate, or an equivalent, in one (1) of the official languages of Malta at MQF level 3; (c) evidence of previous experience practicing the profession through the medium of English or Maltese in a country whose official language is English or Maltese for a period of not less than two (2) years in the past five (5) year period; or (d) evidence of the achievement of the minimum standard of proficiency as indicated in the Third Schedule.*

<https://legislation.mt/eli/sl/622.1/20221227/eng>"

5. On 23 April 2025, the complainant submitted the documentation referred to in this checklist to the Board via email. On 28 April 2025, he sent another email to the Board to clarify that he was unable to access the electronic application using any of the provided methods, namely CORP, eIDAS, e-ID or iLearn. On 8 May 2025, the Periti Warranting Board replied stating that since applications are normally received through the online portal using the e-ID, they were checking about this. On 22 May 2025, the Board informed the complainant that in accordance with article 3(b) of the Periti Act, he was required to be established in Malta first in order to be eligible for the Perit warrant, and that once his establishment was in place, he would be required to submit his application for the warrant through the designated online portal. On the same day, the complainant replied to the Board disputing the requirement that he must first be established in Malta on the basis that article 4(3)(b) of the Periti Act states that "*the candidate seeks establishment in Malta*". He contended that despite that he

will be based in Malta for a sufficient period of time, Malta does not have to necessarily be his country of residency. On 29 May 2025, the Board replied to the complainant stating that the Perit warrant is for applicants who intend to permanently establish themselves in Malta, and requested that the complainant provides proof of establishment in Malta. On 25 June 2025, the complainant provided a copy of a lease agreement signed on 1 June 2025, for a period of one year, as proof of his establishment in Malta. On 2 July 2025, the Board acknowledged his submission.

6. On 23 July 2025, this Office communicated the complaint to the Periti Warranting Board and the Ministry for Transport, Infrastructure and Public Works, requesting information about the status of the complainant's application. On 29 July 2025, the Board informed this Office that it was meeting on 5 August 2025 and that thereafter it would communicate the way forward. On 6 August, the Board informed this Office that it decided to seek advice from the State Advocate on this matter. This Office reiterated its request for comments on 22 August 2025, and on the same day, the Board replied that they were awaiting the State Advocate's advice as they required a clarification on the requirement of residency in this particular case. This Office submitted a further request for information on 1 September 2025 regarding the requirements for the recognition of the professional qualification of *Perit Inginier Ċivili* in Malta. On 12 September 2025, the Board informed that they received the advice from the State Advocate and that they were meeting on 30 September 2025. On 7 October 2025, the Board communicated its decision to this Office, reproduced below *ad verbatim*:

“According to the State Advocate’s feedback, ...[OMISSIS] may submit an application without the proof of and Identity Card since he provided a 1 year lease agreement as proof of establishment. The Secretary is to inform ...[OMISSIS] that the application is accepted on this basis. The application would still need to be vetted and registration confirmed through IMI.”

7. On 27 October 2025, the Board informed the complainant that the lease agreement would be accepted by the Board as proof of establishment once he provided the notification of approval that the agreement was registered with the Housing Authority.

Considerations

8. First and foremost, this Office observes that the rules according to which a Member State shall recognise professional qualifications obtained in one or more other Member States and which allow the holder of the said qualifications to pursue the same profession there, are outlined in Directive 2005/36/EC (the ‘PQD’), as amended by Directive 2013/55/EU. This Directive has been transposed into national legislation through the Mutual Recognition of Qualifications Act (Chapter 451 of the Laws of Malta) and its Subsidiary Legislation, as well as the Periti Act (Chapter 622 of the Laws of Malta) and its respective Subsidiary Legislation.

9. With respect to the crux of the complaint, which is the alleged unjust delay faced by the complainant, this Office considered that Regulation 25 of S.L. 451.03, the Recognition of Professional Qualifications Regulations states that:

“25. (1) The designated authority shall acknowledge receipt of an application within a month of receipt and inform the applicant of any missing document.

(2) The procedure for examining an application for authorisation to practise a regulated profession must be completed as quickly as possible and lead to a duly substantiated decision by the designated authority in any case within three months after the date on which the applicant’s complete file was submitted. However, this deadline may be extended by one month in cases falling under Sections I and II in Part III.”

Regulation 11 of S.L. 622.01 also outlines in detail the manner in which the Periti Warranting Board must process an application. It states that:

“11. (1) The Board shall acknowledge the receipt of every application as soon as possible and in any case not later than fifteen (15) days from the date of the submission of the application.

(2) The acknowledgement referred to in sub-regulation (1) shall specify:

- (a) the time period within which the application shall be processed;*
- (b) the available means of redress; and*

(c) a statement that in the absence of a response by the Board within the specified time period, the authorisation shall not be deemed to have been granted.

(3) The Board shall assess the contents of the application to verify eligibility in accordance with regulations 3 to 9, as applicable, within one (1) month.

(4) In the event that, for any reason, the application is incomplete, the Board shall inform the applicant and ask him to submit all the additional documentation necessary for the application to be processed, together with the consequences which ensue, should the applicant delay in providing the said documentation.

(5) In the cases referred to in regulation 7(1)(d) and (e) and regulation 7(2)(b) and (c), a request for re-examination shall suspend the period laid down in sub-regulation (3).

(6) In the event that the Board needs to consult a designated authority in another Member State, it shall request such designated authority to give its reply within a period of three (3) months.

(7) On receipt of the reply or on the expiry of the period, the Board shall continue with the procedure referred to in sub-regulation (1)."

10. Therefore, once the applicant submitted the documents requested via email on 23 April 2025, and considering that the application form is not accessible to non-Maltese nationals, the Board was obliged to assess the contents of the application to verify eligibility within one month. During this period, the Board was also required to inform the applicant and ask him to submit all the additional documentation necessary to process the application. However, the Board only confirmed acceptance of the complainant's application on 7 October 2025. Furthermore, it requested additional evidence regarding the registration of the lease agreement on 27 October 2025, approximately six months after the initial submission. This delay constitutes not only a clear violation of Regulation 11(3) of S.L. 622.01, but also violates Regulation 35 of S.L. 451.03, which imposes a duty on the competent authority to assess the contents of applications and communicate with the applicant within the prescribed one-month timeframe.

11. With respect to the requirement of submission of proof of the right of establishment in Malta, the matter may be easily resolved through a reading of regulation 6 of S.L. 622.01, the Periti Warrant Regulations. Regulation 6 states that:

“6. Applications shall include a certified copy of the applicant's national identification card issued in Malta:

Provided that in respect of citizens of other Member States, the Board shall accept as sufficient evidence a certified copy of the national identification document issued by the Member State of origin:

Provided further that in respect of citizens of other Member States, the Board may require evidence of the intention to effectively practise the profession through stable arrangements in Malta.”

Therefore, it is clear that the complainant, as a citizen of another EU Member State, is not required to submit a Maltese national identification card; rather, a certified copy of their national ID issued by their country of origin is accepted. However, the Board may request evidence demonstrating the applicant's intention to establish a professional presence through stable arrangements in Malta. Such documentation would satisfy the requirement that the applicant “*seeks establishment in Malta*” as set out in Article 4(3)(b) of the Periti Act, thereby ensuring that applicants are not only qualified but also genuinely committed to practising their profession within the Maltese jurisdiction.

12. Hence, on 22 May 2025, the Board erroneously requested that the complainant first establish himself in Malta and afterwards submit the application for the warrant through the online portal. This effectively required the applicant to acquire a Maltese national identification card in order to access the e-ID system and proceed with the application. Such a requirement clearly exceeds what is stipulated under the Periti Act and Subsidiary Legislation 622.01, and imposes a disproportionate barrier to access to the profession for EU nationals. Subsequently, on 29 May 2025, the Board revised its position and requested that the complainant provide proof of establishment in Malta, which the complainant submitted on 25 June 2025. However, the absence of clear procedural guidance and a dedicated application framework for EU applicants continued to hinder progress. Following several months of deliberation on what would constitute

sufficient proof of establishment in Malta, and after seeking the advice of the State Advocate to ensure alignment with the applicable legal framework, the Board further requested that the applicant provide evidence of registration of the lease agreement with the Housing Authority. This sequence of events reflects a fragmented and reactive approach that undermines legal certainty and administrative efficiency.

13. In light of the above, this Office considers that the delay by the Board was primarily attributable to three interrelated factors: (i) the absence of a dedicated application process tailored for applicants from European Union Member States, resulting in procedural uncertainty; (ii) an incomplete and non-exhaustive checklist of applicable requirements, which hindered transparency and consistency in the assessment process; and (iii) a lack of internal clarity within the Board regarding the criteria and evidentiary thresholds for recognition of applications, including what constitutes sufficient proof of establishment in Malta. These shortcomings collectively contributed to prolonged deliberations and delayed decision-making.

14. It is also noteworthy that the Malta Further & Higher Education Authority has published Guidelines for the Competent Authorities in relation to the Point of Single Contact (PSC) and the Professional Qualifications Directive 2005/36/EC. These Guidelines outline “*a number of implements elements stemming from the PQD which need to statutorily feature on the websites/ portals of the Competent Authorities in charge of a specific regulated profession*”. These items are the following:

- (i) A functioning e-form/ Application relevant to the warrant/ licence necessary to practice the profession, accessible not exclusively by means of e-ID but through other alternative and safe authentication methods easily accessible for non-Maltese nationals.
- (ii) A list of regulated education and training with a special structure as the case may be for each regulated profession covered by the authority (Directive 2013/55/EU Article 11).
- (iii) A list of declarations to be made in advance if the service provider moves to another country (Directive 2013/55/EU Article 7).
- (iv) A list of documentation and formalities required from applicants to access the regulated profession (Directive 2013/55/EU Article 50(1)).
- (v) A clear description listing timeframes of the procedure for the mutual recognition of professional qualification (Directive 2013/55/EU Article 51).
- (vi) Information about any requirements with respect to knowledge of specific language/s (Directive 2013/55/EU Article 53).
- (vii) Information about any fees to be paid by applicants to competent authorities.

(viii) Information about the method of redress/ appeal procedures from decisions of the Competent Authorities under national laws, regulations and administrative provisions.

15. On 8 October 2025, this Office requested information from the Board on whether proof of residence or address in Malta is required when an application is submitted via eIDAS or via email, and if so, what is the legal justification for the imposition of this requirement. It also requested information on whether the documentation required for the application is clearly and exhaustively listed on the Periti Warranting Board's website or application portal. On 14 October 2025, the Board replied that proof of residence or address in Malta is required since the candidate must "*seek establishment in Malta*". The Board provided an extract from the eform which lists the documents to be uploaded, reproduced hereunder:

“Documents to be uploaded

Regulation Certificate (for Registered Professionals from their Home Country.

Police Conduct/Certificate issues within the last 3 months.

ID card or other proof of nationality.

Compulsary to non regulated applicants

Professional Training Record Book to be downloaded from the (USEFUL DOCUMENTS).

This Office notes that, once again, the Board has erroneously interpreted the requirement under Article 4(3)(b) of the Periti Act, which must be read in conjunction with Regulation 6 of S.L. 622.01. Requiring proof of residence in Malta prior to the recognition of professional qualifications may constitute an unjustified barrier to mobility under Directive 2005/36/EC. While an applicant may submit proof of residence or address in Malta as evidence of their intent to establish professionally, this should not be treated as a strict prerequisite. Applicants must be afforded the opportunity to demonstrate intent to professionally establish themselves through alternative “*stable arrangements in Malta*”, thereby avoiding undue financial burdens prior to the recognition of their professional qualifications. Furthermore, this requirement was not listed among the documents to be uploaded by applicants, creating ambiguity and inconsistency in the application process.

Conclusion

16. Having regard to the established facts and the foregoing considerations, I am of the opinion that the Board’s conduct constitutes maladministration in terms of Article 22(a), (b), and (c) of the Ombudsman Act. The initial requirement imposed on the complainant to obtain a Maltese national identification card and e-ID access, based on a misinterpretation of Article 4(3)(b) of the Periti Act, together with the prolonged timeframe, is contrary to law. Moreover, the absence

of a clear application process for EU nationals, coupled with shifting and unclear requirements, rendered the procedure unreasonable and unjust. The cumulative effect of these actions creates a disproportionate and unlawful barrier to the complainant's right to access the profession in Malta.

Recommendations

16. In light of the above findings, I recommend that the Periti Warranting Board considers the application as complete for the purposes of Regulation 25(2) of S.L. 451.03. Accordingly, the Board should proceed to examine the application as quickly as possible, leading to a substantiated decision within three months from notification of this final opinion, without imposing additional requirements beyond those set out by or under the Periti Act. As stipulated in Regulation 25(2), this deadline may be extended by one month in cases falling under Sections I and II in Part III of S.L. 451.03.

17. Furthermore, the Periti Warranting Board should revise its procedures in line with the MFHEA Guidelines and Directive 2005/36/EC, as amended by Directive 2013/55/EU, to ensure legal compliance and prevent recurrence, including:

- i. Developing an e-form or electronic application process for professionals from other Member States of the European Union seeking establishment in Malta, and ensuring applicants receive timely updates.

- ii. Publishing an exhaustive and publicly accessible checklist detailing all documentation, timeframes, and procedural steps required for recognition, including clear examples of acceptable evidence of intent to establish a professional presence in Malta.

Judge Joseph Zammit McKeon
Ombudsman

4 November 2025