

23 April 2026

Parliamentary Ombudsman
Office of the Ombudsman
11, Triq San Pawl,
Valletta

Re: Final Opinion on Case No: OMB-26-7135

Dear Sir,

Your letter dated 27th March refers.

The Ministry respectfully rebuts the claims contained therein, principally, that it is shirking from any Constitutionally enshrined obligations regarding the return, or denial thereof, of Maltese nationals to Malta. Preliminarily, and as per its previous missive, the Ministry is not the competent authority, nor does it have any executive power or effective authority, to refuse, or allow travel or entry into Malta.

Your Office appears to be of the view that the Ministry should refund the expenses expected to be incurred by the complainant in obtaining Russian documentation and air travel to Malta. This position is premised on the assertion that MFT's advice contradicted Identità's advice, namely that the minor may travel to Malta with the mother using an expired passport, given that the father does not wish to provide consent for the child to be issued with a passport.

The Ministry wishes to contest this conclusion for several reasons as will be highlighted below.

At the outset, the Ministry wishes to highlight an important point, that it did not communicate its position against travelling with expired passport to . This position was mentioned in an internal communication between the Ministry's Head Office, the Embassy, and Identita', where the Office of the Ombudsman was in copy. The only communication made with relative to the travel with an expired passport was made by the CEO of Identita' and not the Ministry, as per correspondence attached to our first letter.

Secondly, there is a significant risk that a minor travelling internationally (in this case multiple borders given that there are no direct flights) with an expired travel document and accompanied by only one parent could encounter serious difficulties at one or more border crossings. While the Ministry is not competent to determine the entry or transit requirements of all third countries, it is well-established that border authorities exercise heightened scrutiny in cases involving minors, particularly where only one legal guardian is present. Even where a valid passport document is held, minors travelling without both parents may be subject to additional checks, delays, or refusal of onward travel.

Thirdly, the requirement for the consent of both legal guardians is rooted in the need to prevent child abduction. The fact that a parent may hold full or exclusive custody under Maltese law does not automatically entitle that parent to apply for or collect a passport on behalf of the minor. Any court decree must explicitly authorise such action without the consent of the other parent. Advising that a minor travel on an expired passport in circumstances where parental consent is lacking runs counter to these safeguarding principles. Should such an approach be adopted as a general practice, responsibility for any adverse consequences, including potential child abduction scenarios, would necessarily rest with the authorities advocating it.

Fourthly, with respect to the Ombudsman's reference to Article 44(1) of the Constitution, the Ministry has in no way deprived the child of the right to enter Malta. On the contrary, the Ministry advised on what it considers to be the safest and procedurally sound option for the minor and the mother to return to Malta. It did not prevent the parent from following the alternative option suggested by Identità. Ultimately, any advice provided by the Ministry is advisory in nature, and the final decision rests with the travellers themselves.

MFT therefore maintains that the advice given was appropriate, proportionate and motivated on grounds of the child's best interests and the child's safety.

GOVERNMENT OF MALTA
OFFICE OF THE DEPUTY PRIME MINISTER
MINISTRY FOR FOREIGN AFFAIRS
AND TOURISM
PERMANENT SECRETARY

While the Ministry does not endorse Identità's position in this matter, it neither prevented nor obstructed the child's return to Malta, but acted responsibly in outlining the safest available option. Given that the Ministry still believes that the advice given was correct, it believes that the refund is not warranted.

On the matter related to the issuance of the passport to the minor in question, if the Office of the Ombudsman directs the Ministry to proceed and process a Passport for the minor without the consent of the Father, against current law and practice, CEO Identita needs to give the go ahead to proceed such. Unless we receive this in writing, the Ministry is not able to proceed. And this ultimately ties to the fact that the Ministry is not the authority for the issuance of passports.

To this end, and in light of the reasons provided above, the Ministry respectfully refutes the conclusions reached by the Office of the Ombudsman. The Ministry reiterates that it has acted in good faith and in accordance with established laws and procedures applicable to the case in hand.

Regards,



Christopher Cutajar

Permanent Secretary