

**MALTA**

COURT OF APPEAL

**(Inferior Seat )**

**HON. JUDGE**

**LAWRENCE MINTOFF**

Sitting of January 25 , 2023 Inferior Appeal Number 29/2022 LM

**Access Info Europe**

*('the respondent')*

***Vs.***

**Ministry for Home Affairs and National Security**

*('the appellant')*

**The Court, Preliminary**

1. This is an appeal lodged by the respondent **Ministry for Home Affairs and National Security**  [herein 'the appellant'], by decision of the Information and Data Protection Appeals Tribunal (IDTP) [hereinafter referred to as 'the Tribunal') of 24 March, 2022 [hereinafter referred to as 'the decision under appeal'), by which the Tribunal revoked the decision given by the Information and Data Protection Commissioner [hereto]

Commissioner'] on the 31st October, 2019, where he had decided that the applicant **Access Info Europe** [here "the appeal"] does not fall within the meaning of "eligible person" pursuant to Article 2 of Cap. 496 of the Laws of Malta, and ordered the respondent Ministry to consider theapplicant's claims as an "eligible person".

**Facts**

1. The applicant filed a complaint with the Commissioner because she had requested information from the respondent Ministry about the return of immigrants from Malta to third countries, which had rejected her request. It transpires that on the 16th August, 2019, Martina Tombini, a researcher with the applicant, had requested access from the respondent Ministry to documents regarding the return of immigrants, but the respondent Ministry replied that the person who submitted the request had to prove that he is an eligible person *in terms*  of article 2 of Cap. 496 of the Laws of Malta, which states To:

"eligible person" means a person who is resident in Malta and has been so resident in Malta for a period of not less than five years, and who is a citizen of either Malta or another Member State of the European Union, or a national of any other state whose nationals are entitled, by virtue of a treaty between that state and the European Union, which in Malta are treated in the same way as in the citizens of member states of the European Union."

1. The applicant complained that the interpretation given by the respondent Ministry was that in order for a person to be able to make such a request, she must meet the cumulative criteria that he has resided in Malta for more than five years, as well as be a citizen of Malta or of any State. Other Member of the Union

European. The applicant explained that the law does not restrict the right to request documents for persons who are Maltese or European citizens and who have lived in Malta for a number of years. The applicant contends that the relevant article of law wants both European citizens andMaltese citizens to have the right to submit requests for access to documents, thus bringing the Freedom of Information Act into line with international laws and *standards*. The applicant submits thatnational laws must be interpreted and applied in accordance with European law, and the decision to grant access to documents only to persons resident in a given country can lead to discrimination. In that regard, the applicant gave the Commissioner a ruling on the correct interpretation of this provision of the law.

1. By letter sent by the Office of the Commissioner on 31 December 2020,

October, 2019, the applicant was informed that:

"*After taking into consideration* the  *specific sections*  of the  *debates when Parliament discussed the definition of eligible persons during the sessions on the draft bill concerning freedom of information,* the  *Commissioner concludes that the legislator's intention was une quivocally to restrict such right to persons residing in Malta for a period of at least five years.*

*In this regard, there was no need for the Commissioner to discuss the issue of the comma before the word "and", as from the said parliamentary debates, it is undebatable*  that the  *requirements that* make a  *person eligible to make a request for information, should be read cumulatively with the other conditions set out in the definition.*

*In the light* of the  *foregoing*,  *whereas* the  *Commissioner stresses* the  *fact* that  *his role* is  *restricted to implementing and enforcing the provisions of the Act, he is hereby deciding that, given the circumstances, the Public Authority's position not to accept the request for information is in accordance with the definition of eligible person and nder Article 2 of the Act."*

**Merit**

1. By the application before the Tribunal, the applicant asked the Tribunal to verify whether the conclusion reached by the Commissioner was correct, that the intention of the legislator was to limit the right of access to information to Maltese or EU citizens residing in Malta for a period of of at least five years, and in order to assess whether Maltese law on freedom of information interferes with the Constitution and international law, because it deprives a person of the right of access to information on the basis of his residence.
2. The applicant contends that the right of access to information forms part of the fundamental right of the right to freedom of expression i, and that right may be exercised without frontiers, irrespective of nationality or from the residence of the individual. She added that the European Court of Human Rights, in its rulings, confirmed that Article 10 of the European Conventionon Human Rights includes the right of access to information. It said that as a Member State of the European Union, Malta must adopt standards of transparency, including the Charter of Fundamental Rights, which includes in its Article 42 the right of access to documents, as also provided for in article 15 of the Treaty on the Functioning of the European Union, and the EC Regulation on access to documents (Reg. 1049/2001). Recurrent society said that the Treaties of the European Union attach importance to the principle of transparency in decision-making, as part of the value of good governance and participation in democratic life.
3. The applicant also stated that the Constitution of Malta includes the involuntary fundame right of freedom of expression, which includes the freedom to receive

information and information without interference. It also stated that European Union Member States should not discriminate against nationals of other Member States in the exercise of their fundamental rights , and national laws should be interpreted and applied in accordance with European laws. The applicant also stated that the requirement of residence in Malta is contrary to the principles of international law and against European law, which is a direct violation of Malta's obligation to protect the right to freedom of expression and information. It also stated that the rejection of Martina Tombini's claim violates her fundamental rights, and that of other employees of the applicants who are being denied a similar claim forhormation on the grounds that they are not resident in Malta.

1. The Ministry respondent in its reply replied that the second request of the applicant company cannot be questioned by the Tribunal because it does not have the competence to decide on violations of the fundamental rights of individuals or of rights protected under international law. He added that the applicant's claims are incorrect both factually and legally, so her appeal must be dismissed. The respondent explained that on the 16th August, 2019 a request was made by the applicant under the Freedom of Information Act, and his position was that the requested information could not be provided because an eligible person must meet two cumulative requirements, namely that which must have been resident in Malta for five years, and the requirement which must be the sign of Malta or of any other Member State of the European Union. He said that since the applicant is not resident in Malta, it does not meet the eligibility criteria. He added that the applicant filed a complaint with the Information and *Data* Protection Commissioner on 20 September 2019 in order to attack the decision taken by the

A ministry, however, replied that the interpretation of "eligible person" given by the Ministry is correct, and the intention of the legislator was to restrict this right to persons who have been living in Malta for a period of not less than five years. The Ministry respondent added that this decision of the Commissioner is correct, and must be confirmed, even in light of the fact that the text of the law is clear, and includes the word 'u' between the requirement that a person must have been living in Malta for a period of not less than five years and the requirement of citizenship. The respondent Ministry also pleaded that the application of the law is not lawful of the right to freedom of expression or of the right of access to information, and the articles of the Conventions and Treaties mentioned by the applicants shall find no application from the Tribunal. He also said that the Tribunal does not have the competence to declare that article 2 of Cap. 496 of the Laws of Malta violates article 41 of the Constitution, or article 10 of the European Convention, and therefore the Tribunal shall dismiss the appeal of the applicant company.

1. The Commissioner said in his statement that the applicant's requests were rejected because the proof had to be made *in terms* of article 2 of the Act, that the requester had been resident in Malta for at least five years, and that he is a Malt citizen. or of any other Member State of the European Union. He referred to the parliamentary debates that took place before this Act came into force, citing an excerpt from the Prime Minister's speech to the Hon. Joseph Muscat. Lawrence Gonzi during the Second Reading of Bill[[1]](#footnote-1), who explainedthat:

*"We did so because we wanted to give the Maltese people this right without exception, but then we also wanted reciprocity. That is, a foreigner may be living in another country, may be a journalist of another country, but that country does not give the same rights to the Maltese to request information on a particular aspect.*  *So we considered* that  *there is no reciprocity so* in  *that case* we  *should not have given* this right to  *all* the humanity  *that exists*  in  *the globe*,  *but we should grant this right* primarily  *to those who live in Malta, primarily to Maltese citizens, and after a maltese citizens to residents in Malta, European citizens and even* nationals of  *those other countries which are not members of the European Union but with whom the European Union has this reciprocity arrangement."*

1. The Commissioner added that itwas after evaluating this speech, that he had come to the conclusion that the interpretation given by the Ministry as to who can be considered to be an eligible person is correct and that this right should be restricted to persons who have been living in Malta for at least five years. He said that his role is restricted to the implementation and enforcement of the provisions of the Act, and therefore he will not go into the merits of the question of whether this application of the law is a violation of the Constitution or any other right protected under international law.
2. **Helen** Darbshire explained in her *affidavit* that Access Info Europe is an organisation working at the crossroads of fundamental rights based in Madrid, focusing in particular on protecting and promoting the right to freedom of expression. In this specific case Martina Tombini asked Malta's Ministry of Home Affairs and National Security to provide some information, as part of a survey which is being carried out by all EU Member States, Liechtenstein, Norway and Switzerland. It specified that the information requested was on how many decisions were takenfor the return of immigrants in 2017 and 2018, the total number of operations return returned from Malta in 2017 and 2018, month by month and year by year, and the total number of immigrants returned in 2017 and 2018, month by month and year by year. It also stated that for each of these operations, information was requested as to whether the operation was national, joint, assisted or forced, the destination and date of return, the number ofmigrants returned, and their sex, age and country of origin, the total cost of these operations, and if appropriate, the percentage of expenditure covered by other Member States, and information about the flights used by sabiex these migrants were returned. She explained that a list of any agreement signed by Malta to return immigrants to third countries was also requested. She said that the requested information did not contain personal or confidential information, and no other country other thanMalta refused to provide the requested information. It also stated that it had never before encountered a situation where access to information was restricted to persons resident in any given country for at least five years. The witness summarised the facts as they visited, as well as explaining the Conventions and Treaties which in her view are being violated by Malta by applying the requirement that a person must have been living in in the country for at least five years to be able to request such information. It submits that the link of the fundamental right of access to information with the requirement that a person must have resided in the country for at least five years, constitutes a violation of Article 10 of the European Convention on Human Rights, Article 19 of the International Convention on Civil Rights. and Politicians, Article 11 of the Charter of Fundamental Rights of the European Union and of the Constitution of Malta. She said that the right of access to information is part of the fundamental right of freedom of expression, and this is a right that can be exercised

without frontiers, regardless of the nationality or residence of the individual. The witness also said that the differential treatment being given to persons who are not resident in Malta amounts to discrimination under article 14 ofthe European Convention on Human Rights. She said that freedom of expression and freedom of information, are fundamental rights that should be granted to every person, without discrimination. It also stated that the differential treatment being given to Citizens of the European Union amounts to discrimination on grounds of nationality, which is expressly prohibited under Article 18 of the Treaty on the Functioning of the European Union and Article 21 of the European Charter of Fundamental Human Rights. She also said that the European Treaties have always prohibited discrimination on grounds of nationality, in order to ensure that all European citizensare given equal treatment. The witness said that the requirement of five years' residence is a clear case of indirect discrimination against other European citizens, because it hinders the right of nationals of other Member States to exercise the right of freedom of access to information in Malta. She also said that the fact that the applicant has been deprived of this right is hindering her ability to carry out projects across the European Union, which will put them at a disadvantage with other NGOs based in Malta doingthe same work. She said this could be a protectionist measure that would interfere with the freedom of movement and the freedom to provide certain services across the European Union. It also stated that the residence-based restriction isdetrimental to the applicant's ability to meet its obligations in relation to international projects, and may therefore affect its prospects of obtaining funds in the future.

1. **Martina**  Tombini said in her affidavit that she hasbeen working since 2018 as a '*researcher and campaigner'* with the applicant. She said that her job is to conduct investigations so that she can assist journalists and/or members of civil society in order to have access to information about migration, with a view to improving discussion and public participation. In her *affidavit*, the witness explained the main facts that led to the present proceedings, stressing that the Commissioner's interpretation of the concept of 'eligible snamon' is interfering with her right to offer professional services in the European Union. She said that the service it offers to journalists and civil society organisations in order to obtain information from national governments, is not a service it can offer in Malta, so this is putting it at a disadvantage compared to Maltese citizens and people offering similar services.
2. **Stephen Vassallo, Assistant Director in the Office of the** Permanent Secretary of the Ministry for Home Affairs, National Security and Law Enforcement, said in his *affidavit*  that on the 16th August, 2019 a *freedom of information*  request was entered by the applicant, and on the 4th September, 2019, the respondent Ministry informed the applicant that the request made could not be processed because the defendant gave lab did not meet the requirement of a minimum of five years' residence in Malta. The witness explained that the applicant made a complaint about this decision to the Commissioner, and the decision taken by the Commissioner in this regard was correct infact and in law, and should be confirmed. The witness said that the text of the law is a clear one, and the requirements laid down in the Act must be met cumulatively and not alternatively, with the consequence that for a request for information persuna to be made it must have been resident for a long time. Malta for at least five years of age, as well as being the case of Malta or any other country of the European Union.

**The decision under appeal**

1. By decision of 24 March 2022, the Tribunal held that the applicant had *standing*  to bring an action for information, after having given the following considerations:

*'The Tribunal;*

*Having seen the appeal by Access Info Europe;*

*Having seen*  the  *reply by the Ministry for Home Affairs and National Security.*  *Having heard the parties, read the evidence produced including the statement made by the Information and Data Protection Commissioner in accordance with Article 26(4) of Chapter 586 of the Laws of Malta, and their final submissions. Decides as follows:*

*That this appeal rests on the interpretation* of the meaning of 'eligible person' *under Article 2 of Chapter 496 of the Laws of Malta which states:*

"**eligible person**" means a person who is resident in Malta and who has been so resident in Malta for a period of at least five years and who is either a citizen of Malta or a citizen of any other member state of the European Union or a citizen of any other state, the citizens of which have a right in virtue of any treaty between such state and the European Union to be treated in Malta in the same manner as citizens of Member States of the European Union."

*Facts of the case*

*The appellant made a request under the Freedom of Information Act to the Ministry of Home Affairs and National Security. The said Ministry refused the request on the basis that Access Info Europe does not fall within the definition of 'eligible person' under the Freedom of Information Act. Access Info referred the matter to the Information and Data Protection Commissioner and the said Commissioner on 31st October, 2019 decided against the request made by Access Info Europe in that they do not qualify as an*  'eligible person' *according to Chapter 496 of the Laws of Malta.*

*Now as regards the appeal made by Credit Info, the grievance of the appellant regarding fundamental human rights or breach thereof are not the competence of this Tribunal and the appellant may address the grievances regarding the alleged breach of the fundamental human rights to the appropriate fora.*

*The Tribunal has competence therefore to address only the first grievance of the appellant in that the correct interpretation of Article 2 of the Malta's Freedom of Information Act by the Ministry and the Commissioner is incorrect.*

*According to the appellant, this definition does not require that an eligible person needs to satisfy all these criteria*, that  *is,* a  *person must be* resident in Malta  *and that he has been so resident in Malta for a period of at least five years;*  that  *he is* either a citizen of Malta or a  *citizen of any other Member State of the European Union but it requires that* a  *person can be either* resident in Malta  *or has been so resident in Malta for a period of at least five years, or that a citizen of Malta;*  *or that* a  *person is a citizen* of  *any Member State of the European Union.*   *The appellant argues that* they fall  *under* the definition of  *a citizen* of  *a Member State* of the  *European Union and therefore they fall within the definition of* 'eligible person'.

*Having seen the parliamentary debates submitted by the Commissioner with his statement of case, and that during the debate it was made clear that this definition applies by Hon. Lawrence Gonzi that: "*Therefore we considered that there is neither reciprocity so in that case we should not have given this right to all mankind to exist in the globe but we should give this right primarily to who live in Malta, european citizens and even citizens of those other countries which are not members of the European Union but with whom the European Union has thisreciprocation arrangement." *(fol. 458 parliamentary debates).*

*From this debate it is clear that the intention of the legislator was never to withhold such information from the EU citizens although the wording used in the legislation regarding the criteria of*  'eligible person' *according to Article 2 of Chapter 496 of the Laws of Malta leaves scope for interpretation.*

*But for* the  *Tribunal* and  *having also reviewed* the  *legislation* of  *other Member States in this regard from where it results that EU citizens can request such information, decides in favour* of the  *appellant and revokes*  the  *decision of the Commissioner* of the  *31st October, 2019* and  *orders* the  *Ministry for Home Affairs and National Security to consider*  the  *request of* the  *appellant on the merit.*   *This Tribunal* is  *making* it  *clear that* it  *is not decision* on the  *request*  of the  *appellant* to the  *said* Ministry  *and it has decided on the preliminary plea raised by the Ministry as to* locus standi  *of the appellant.'*

**The Appeal**

1. The appellant Ministry brought its appeal against that decision by way of an appeal lodged on 29 March 2022, asking that Court to overturn and revoke the appeal decision of the Information and DataProtection Appeals Tribunal. of 24 March, 2022 in the names premised, confirming the decision of the appellant of 4 September 2019 and of the Commissioner of 31 October 2019. The appellant explained that he felt aggrieved by the Tribunal's decision as towhy national law should apply, namely article 2 of Cap. 496 of the Laws of Malta, and not the law of other Member States, because they do not have legal and/or territorial effect within our country. The appellant said that the Tribunal's consideration that the law of other Member States allows applicants to submit *a Freedom of Information request* even though they have not resided in the country for five years, should not find an application in Malta, costly. ex article 2 of Cap. 496 of the Laws of Malta stipulates two cumulative conditions, in the sense that a person must have been resident in Malta for at least five years, and must be a national of Malta or of any other Member State. He said that the respondent did not satisfy the first condition, which was why he decided that it was not an eligible person under the law. He said that if the legislator wanted to indicate otherwise, it would have done so – ubi *lex voluit dixit, ubi noluit tacquit.*  The appellantalso concluded that the Tribunal could never apply the laws of other Member States in Maltese territory , because the laws which apply here in Malta are those enacted by the Maltese Parliament and by the authorities established by national law. The appellantalso considered that the parliamentary debates referred to by the Tribunal are inconclusive to the interpretation to be given of this article.

of the particular law, and in any case an interpretation given in a parliamentary debate does not necessarily amount to the correct legal position. He said that the Tribunal could not reach the conclusion that it came to relying on the plenary debates, referring to laws which do not form part of the laws of Malta. He said that the said considerations are wrong, in the sense that they are illogical and legally inpropositionable.

**Response to the** **Appeal**

1. The respondent company in its reply replied that the present case concerns a request to the appellant by its representative Martina Tombini, *in terms*  of the Freedom of Information Act (Cap. 496 of the Laws of Malta), having granted his claim since he is not a person eligible under the Act. The respondent contends that the decision under appeal is fair and merits confirmation as it is based on a correct and inthorough appreciation of the specific facts of the case and of the prod otti evidence.
2. The respondent stated that the present proceedings concern the meaning of 'eligible person', since the claim of the respondent was rejected by the appellant on the grounds that anyone making such a request must be Maltese, or the citizen of any Member State of the European Union who has been living in Malta for a at least five years. She said that the interpretation given by the appellant is contrary to article 41 of the Constitution of Malta, which enshrines the right to freedom of expression, which includes freedom of information. She said that this interpretation is also contrary to Article 10 of the European Convention on Human Rights, because the right to freedom of information is one of the meas forming an essential part of freedom of expression. The respondent added that Article 10 of the European Convention corresponds to Article 11 of the Charter of Fundamental Rights of the European Union, according to which the right to freedom of expression includes the right to freedom of opinion, and the right to receive and impart information and ideas without interference by public authority, and regardless of frontiers. The respondent referred to the decision given by the European Court of Human Rights in the names **Youth Initiative for Human Rights *v.***  **Serbia** of 25 June 2013, confirming that the right of access to information is incorporated into Article 10 of the

10 of the European Convention. The respondentalso made reference to the *International Covenant on Civil and Political Rights*  which was ratified by Malta in September 1990, according to which "*[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and im* part *information and ideas of all kinds*, ***regardless of frontiers***, *either orally*, in writing or in  *part*,  *in the form of art, or through any other media of his choice."*  The respondent also stated that the importance of freedom of information has been recognised for many years, referring to united nations General Assembly resolution 599 of 1946. It added that the interpretation of the meaning of 'eligible person' given by the Tribunal in the decision on appeal and that the appellant felt himself aggravated by it, it is correct and in line with the spirit of the Constitution of Malta, because it avoids discrimination between persons on the basis of their State of origin, and /or their place of residence, which leads to a violation of article 45 of the Constitution of Malta and Article 14 of the European Convention. The respondent stated that apart from discrimination on the basis of place of origin, the European Court

Human Rights also ruled that the place of residence is considered a personal characteristic and therefore falls under 'or another status', and therefore the criterion of how long a person has been living in Malta constitutes discrimination according to the European Court. She said that the only reason why the appellant is insisting that the Tribunal's decision should be repealed is that Martina Tombini is not a Maltese woman, and the restriction that the appellant is creating on anyone who is not of Maltese citizenship, is a restriction which violates the said fundamental rights of all non-European . The respondent stated that Malta, as a Member State of the European Union, is subject to the said laws, as well as having obligations of transparency vis-à-vis other Member States. The respondent also submits that Maltese law should be interpreted in conformity with European law, which specifies in Article 15 of the Treaty on the Functioning of the European Union that every citizen shall have the right to access to documents of the institutions, bodies, offices and agencies of the European Union. The respondent also stated that the idea that a fundamental right can be arbitrarily limited is absurd, and there is no fundamental rightfalling under the Constitution of Malta or under the European Convention which is subject to the same kind of restriction. She said that the right to freedom of expression should not apply only after a certain period of time of living in our country, and therefore any interpretation to this effect is incorrect and should be rejected. The respondent stated that when the request was made by Martina Tombini, the same request was made to the equivalent ministries of any other European country, and from all european Union, *European Economic Area*, United Kingdom and Swiss countries, it was only

Malta refused to provide the requested information, when even countries that they are not members of the European Union who have granted her request.

1. The respondent also stated that the present appeal is frivolous and vexatious, intended only to prevent her from obtaining the information requested for an arbitrary reason. It also stated that it is an established principle in our case-law that this Court, as a review court, should not disturb the appreciation of the evidence made by the Court of First Instance, in the present case the T ribunal, in the absence of impellent reasons, and therefore this Court should refuse to review the evidence.

**Considerations of this Court**

1. The Court will proceed to assess the plea raised by the appellant, who in his appeal is insisting that the decision appealed in relation to the meaning of 'eligible person' is incorrect, and the Tribunal had to limit itself by applying Maltese law in the delivery of its decision. The appellant states that the Tribunal should have applied what article 2 of Cap says. 496, and not what the laws of other Member States of the European Union say, and in any case the practice and what takes place in other countries should not find application in Malta. He stressed that for a person to be considered 'eligible', they must meet two requirements cumulatively, namely the requirement of residence in Malta for at least five years, and the requirement that it must be a citizen of Malta or of any other Member State of the European Union, and in the present case it was decided that the respondent should not have been given the information she requested, provided that she does not satisfy first condition, i.e. the minimum of five years' residence.
2. The Court took into account the results of the acts, what was said by the Tribunal in the decision appealed, as well as what was said during the parliamentary debate prior to the promulgation of Cap. 496 of the Laws of Malta, where the then Prime Minister made it clear that restrictions on who can request information, were introduced due to limited human resources, in view of the fact that certain investigations and information requested, may they involve research that takes months to carry out, and that has to be done by several people. The Same Prime Minister made it clear that it was not the intention for individuals from Member States of the European Union to be restricted in the provision of information they request, so this right was being granted to any person who has lived in Malta for at least five years, who is a citizen of the European Union or of a third country having a reciprocity arrangement with the European Union. It is also true that the text of the law is not so felicitous, and it could be argued that if the law is given a restricted interpretation, both requirements should apply cumulatively and not alternatively.
3. However, the Court considers that if the said article of law gives astrict interpretation, namely that *freedom of information request* may only be requested by a national of Malta or of any Member State of the European Union who has resided in Malta for at least five years, it will be practically impossible for a person not to live in Malta to make a request for information such as that made by the respondent. The Court is considering not only what the legislator's intention was when drafting the law, but also the repercussions that the strict interpretation of the law could have on individuals or organisations that it wishes to obtainand information from an entity based in Malta. The requirement that in order to be able to request such information you must have been living in Malta for at least

Five years is discriminatory towards any person who does not fulfil the requirement of a minimum of five years' residence in Malta, with all the legal implications that this entails. Such a restriction directly impacts not only on the right to freedom of information, but also on the freedom of movement, because persons who want to provide a service in order to obtain information from entities governattivi, will face restrictions to obtain the information they need from Malta, as in the present case. The Court will not deepen the element of discrimination, since it is not for the court competent to rule on this point, but it is for the courts of constitutional jurisdiction to do so. But it is clear that the Malt legislatordid not want to create a law that would be different from the laws of the other Member States of the European Union, so much so that in the debate held in the Maltese Parliament, it was specified that the said right is being extended for each region of each country which is not a member of the European Union, but which has a reciprocity agreement with the same European Union. In view of these considerations, the Court disagrees with the appellant claiming that in the decision under appeal the Tribunal applied third country laws, but considers that it interpreted the article of law in question in the light of what was said by the legislator during the parliamentary debate on Cap. 496 of the Laws of Malta, and on the basis of the legal obligations assumed by Malta as Member State of the European Union. It therefore considers that the appellant's plea is not justified, and rejects it, whereas the decision under appeal given by the Tribunal must be upheld.

**Decide**

**For the reasons stated**,  **this Court rules on** the  **appellant's appeal by rejecting it, while upholding the decision appealed in its entirety.**

**The costs of the present appeal are borne by the appellant.**

Read.

**Hon. Dr Lawrence Mintoff LL.D.**

**Judge**

**Rosemarie Calleja**

**Deputy Registrar**

1. 1 Parliamentary debates p. 458. [↑](#footnote-ref-1)