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Hon. Prime Minister

Hon. Parliamentary Secretary for Justice

**Re: Deprivation of Citizenship**

I have been asked to give a legal opinion with regard to the question as to whether the enactment of a law that would deprive all persons who acquired Maltese citizenship through the Individual Investor Programme currently being debated in Parliament under the Maltese Citizenship (Amendment) Act, 2013 would be within the powers of Parliament under the Constitution.

In Article 22 (1) the Constitution establishes that:

“The acquisition, possession, renunciation and loss of Maltese citizenship shall be regulated by law.”

This wording implies that Parliament has the power to enact laws from time to time that also provide for the “loss of Maltese citizenship”.

In fact Article 14 of the Maltese Citizenship Act provides for the deprivation of citizenship of persons who acquire Maltese citizenship by registration or naturalization.

However, such deprivation may only be made for specific reasons stated in the law, may only be made if the Minister "is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Malta" and it may not in certain circumstances be exercised in a manner that renders a person stateless.

Moreover the person whose citizenship it is proposed to withdraw is granted a right to demand an inquiry about the proposed deprivation.

The law as it stands therefore quite clearly excludes the wholesale deprivation of citizenship to a class of naturalized citizens irrespective of their conduct or individual circumstances.

With regard to the question as to whether a law passed by Parliament providing for such class deprivation would withstand a constitutional challenge, my answer is in the negative for the reasons given below.

In the first place once the State would have accepted to grant citizenship through the Individual Investor Programme it cannot then treat persons acquiring such citizenship differently from other naturalized citizens without the existence of reasonable and objective grounds for such different treatment in each particular case. The right to protection against discrimination and the right to privacy would therefore rule out the possibility of a class deprivation of citizenship by legislative enactment.

Moreover once a person acquires citizenship under the Individual Investor Programme he would also acquire rights and legitimate expectations of which he may not be arbitrarily deprived by law. This also ties in with the constitutional principle, based on the "rule of law" that the law may not sanction the arbitrary exercise of power and that "legal certainty" should be safeguarded.

For the above reasons I conclude that although Parliament may by law discontinue or charge a ground of acquisition of citizenship such as the Individual Investor Programme, any attempt to deprive persons who would have already acquired citizenship under the Programme of their citizenship on grounds other than those attributable to the conduct of the particular individual is bound to run into serious constitutional and legal impediments.

A handwritten signature in black ink, appearing to be 'P. Grech', written in a cursive style.

Peter Grech  
Attorney General