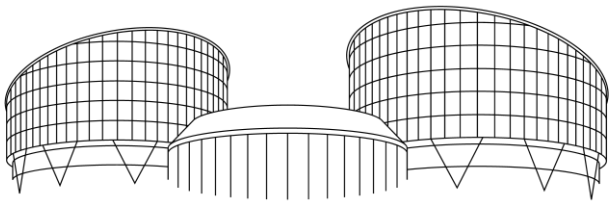

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF GENOVESE v. MALTA

(Application no. 53124/09)

JUDGMENT

STRASBOURG

11 October 2011

FINAL

11/01/2012

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Genovese v. Malta**,**

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Nicolas Bratza, *President,*
Lech Garlicki,
Ljiljana Mijović,
Päivi Hirvelä,
George Nicolaou,
Ledi Bianku, *judges,*
Geoffrey Valenzia, ad hoc *judge,*

and Lawrence Early, *Section Registrar,*

Having deliberated in private on 20 September 2011,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 53124/09) against Malta lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a British national, Mr Ben Alexander Genovese ("the applicant"), on 24 September 2009.

2. The applicant was represented by Dr K. Dingli, Dr A. Bencini and Dr L. Mifsud Cachia, lawyers practising in Valletta. The Maltese Government ("the Government") were represented by their Agent, Dr Silvio Camilleri and later Dr Peter Grech.

3. The applicant alleged that the Maltese law provisions regulating acquisition of citizenship by descent, discriminated against him on the basis of his illegitimate status.

4. On 9 February 2010 the President of the Fourth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

5. The Government of the United Kingdom, who had been notified by the Registrar of their right to intervene in the proceedings (Article 36 § 1 of the Convention and Rule 44), did not indicate that they intended to do so.

6. Mr V. De Gaetano, the judge elected in respect of Malta, was unable to sit in the case (Rule 28 of the Rules of Court). The President of the Chamber accordingly appointed Mr Geoffrey Valenzia to sit as an *ad hoc* judge (Rule 29 § 1(b)).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Background of the case

7. The applicant was born in 1996 and lives in Hamilton.

8. The applicant was born in Scotland and his birth was registered there. He was born out of wedlock and is the son of a British mother and a Maltese father. The latter's paternity has been determined both judicially and scientifically (see below). Mr G., the applicant's father, of Maltese citizenship, has refused to acknowledge his son or to maintain a relationship with him.

9. On an unspecified date the applicant's mother made a request for her son to be granted Maltese citizenship.

10. On 4 September 1996, the Malta High Commission informed the applicant's mother that since she was not a Maltese citizen and the father of the applicant had not yet been declared to be a Maltese citizen on the applicant's birth certificate, the applicant was not entitled to Maltese citizenship. She was informed that citizenship would be granted only if the Maltese father recognised his son on the applicant's birth certificate.

11. Subsequently, the applicant's mother instituted proceedings in Scotland for the Maltese man with whom she had had a relationship to be declared the applicant's father on the applicant's birth certificate. By a decree of an unspecified date the Scottish courts declared Mr G., a Maltese citizen, to be the applicant's biological father. Consequently, the applicant's birth certificate was amended to reflect the established paternity.

12. According to the Government, in the meantime the applicant's mother was informed that even if Mr G. was judicially declared to be the applicant's father the applicant would still not be eligible for citizenship in view of section 5(2)(b) and 17(1)(a) of the Maltese Citizenship Act, which stated that children born out of wedlock were only eligible for Maltese citizenship if their mother was Maltese.

13. Subsequently, the applicant's mother again submitted an application under section 5(2)(b) of the Maltese Citizenship Act (see Relevant Domestic Law below) for her son to be granted Maltese citizenship.

14. On an unspecified date her application was rejected on the basis that Maltese citizenship could not be granted to an illegitimate child in cases where the illegitimate offspring was born to a non-Maltese mother and a Maltese father, in accordance with section 17(1)(a) of the Maltese Citizenship Act (see Relevant Domestic Law). Since the applicant was not born to a married couple, as a result of the application of Article 17(1)(a)

any reference to the "father" in section 5(2)(b) had to be deemed to be a reference to the mother.

15. By a judgment of 27 February 2003 the Civil Court (First Hall) in Malta also declared Mr G. to be the applicant's biological father and he was ordered to pay maintenance.

B. Constitutional redress proceedings

16. Pending the above judgment, in 2002, the applicant's mother in her own name and on behalf of the applicant, as his curator *ad litem*, instituted constitutional redress proceedings, complaining that the said provision was discriminatory and contrary to both the Maltese Constitution and the Convention.

17. On 25 January 2006 the Civil Court, in its constitutional jurisdiction, found that the said provisions were in violation of the Maltese Constitution, because they discriminated against the applicant by depriving him of Maltese citizenship. It further abstained from taking a decision on the compatibility of the provisions with the Convention.

18. On 18 July 2006, on appeal, the Constitutional Court reversed the first-instance judgment in respect of the compatibility of the provisions with the Constitution. However, it sent the case back to the Civil Court for a determination on the compatibility of those provisions with the Convention.

19. On 4 November 2008 the Civil Court in its constitutional jurisdiction held that section 17(1)(a) of the Maltese Citizenship Act was null *vis-á-vis* the applicant because it breached his rights under Articles 8 and 14 of the Convention. It held that, in the circumstances of the case, the issue of paternity concerned private life, if not family life, and that the applicant had suffered discrimination on the ground of birth, his illegitimate status, and the sex of his Maltese parent.

20. On 27 March 2009, on appeal, the Constitutional Court reversed the first-instance judgment. Noting the amendments in 2007 (see Relevant Domestic Law), it considered that its judgment had to be limited to the parameters of the application before it. It held that the right to citizenship was not a substantive Convention right. The grant or denial of citizenship would not facilitate or create obstacles to the applicant's family life since his father categorically refused to have any contact with him. Moreover, since the Convention did not oblige a State to allow a non-national spouse to reside in its territory, it could not be said that the State was obliged to grant citizenship to a non-national.

II. RELEVANT DOMESTIC LAW

21. The Maltese Citizenship Act, Chapter 188 of the Laws of Malta, in so far as relevant, reads as follows:

Section 5

"(2) A person born outside Malta on or after the appointed day (21 September 1964) shall be deemed to have become or shall become a citizen of Malta at the date of his or her birth:

(*b*) in the case of a person born on or after 1 August 1989, if at the date of such person's birth, his or her father or mother is a citizen of Malta ..."

Section 17

"(1) In this Act - (*a*) any reference to the father of a person shall, in relation to a person born out of wedlock and not legitimated, be construed as a reference to the mother of that person; ..."

By means of Act X of 2007 the following subsections were added to section 5 of the Maltese Citizenship Act:

"(3) A person born outside Malta on or after the appointed day who proves he is a descendant in the direct line of an ascendant born in Malta of a parent likewise born in Malta shall be entitled, upon making an application as may be prescribed and upon taking the oath of allegiance, to be registered as a citizen of Malta:

Provided that when the said person is a minor, any such person who according to law has authority over that minor, may submit an application for the registration of the said minor as a citizen of Malta.

(4) Any ascendant as provided in subarticle (3) who dies before the 1st August 2007 and who would, but for his death, have been entitled to acquire Maltese citizenship under this article, shall be deemed to have acquired such citizenship for the purposes of subarticle (3).

(5) Where any of the parents of a person applying to be registered as a citizen of Malta by virtue of subarticle (3) was alive on 1st August 2007 (for the purposes of this article referred to as "the relevant parent") and the relevant parent is also a descendant in the direct line of an ascendant born in Malta of a parent likewise born in Malta, such person shall not be entitled to be registered as a citizen of Malta by virtue of subarticle (3) unless the relevant parent had at any time acquired Maltese citizenship under this article or under article 3; so however that any such relevant parent who dies before 1st August 2010 and who would have been entitled to acquire such citizenship under subarticle (3) or under subarticle (3) of article 3 shall be deemed to have acquired such citizenship for the purposes of that subarticle.

(6) Where any of the parents of a person applying to be registered as a citizen of Malta by virtue of subarticle (3) was born on or after 1st August 2007 (for the purposes of this article referred to as "the relevant parent") and the relevant parent is also a descendant in the direct line of an ascendant born in Malta of a parent likewise born in Malta, such person shall not be entitled to be registered as a citizen of Malta by virtue of subarticle (3) unless the relevant parent had at any time acquired Maltese citizenship under this article.

(7) The person applying to be registered as a citizen of Malta under subarticle (3) shall be entitled to be registered as a citizen of Malta if the relevant parent dies after

the 31st July, 2010 and the relevant parent had applied for and would have been entitled to be granted Maltese citizenship under this article or under article 3."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 14 IN CONJUNCTION WITH ARTICLE 8 OF THE CONVENTION

22. The applicant complained that Maltese law provisions regulating acquisition of citizenship by descent, discriminated against him contrary to the provision of Article 14 of the Convention in conjunction with Article 8, which, in so far as relevant, read as follows:

Article 8

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

Article 14

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

23. The Government contested that argument.

A. Admissibility

1. Preliminary objections

24. The Government submitted that in 2007 there had been amendments to the law rendering the applicant eligible for citizenship. This notwithstanding, the applicant had failed to apply. They further submitted that the applicant's submissions in the domestic proceedings had been focused on "family life" and not "private life".

25. In so far as these submissions can be considered as amounting to objections in respect of victim status and non-exhaustion of domestic remedies respectively, the Court notes the following:

In the first place, as confirmed by the Constitutional Court (see paragraph 20 above) the scope of the application relates to the applicant's eligibility for citizenship in the period prior to the amendments in 2007. In consequence, the fact that the applicant has not applied for citizenship

following the amendments, which were enacted, more than ten years after the original application for citizenship, has no bearing on the present application.

Secondly, in respect of the submissions made before the domestic courts, the Court considers that the applicant raised a complaint under Article 14 in conjunction with both the private and family aspects of Article 8 before the appropriate national courts, in substance and in accordance with the formal requirements of domestic law.

26. It follows that the Government's preliminary objections must be dismissed.

2. Applicability

27. The Government submitted that the facts of the case did not fall within the ambit of Article 8 as there existed no family life as interpreted in the Court's case-law, namely, the existence in practice of close personal ties between the applicant and his father. The biological reality was not enough to constitute family life. Moreover, there was no legal impediment to developing family life. Being a European Union ("EU") citizen, the applicant could visit Malta freely and unlimitedly, reside and also work there. More importantly, the Government submitted that citizenship and nationality were not Convention rights, and thus as held in *Family K. and W. v. The Netherlands* (no. 11278/84, Commission decision of 1 July 1985, *Decisions and Reports* (DR) 43, p. 216), Article 14 could not apply.

28. The applicant submitted that the circumstances of the case fell within the ambit of "private life", irrespective of the father's lack of will to foster a relationship with him. In practice, citizenship would enable the applicant to spend an unlimited time in Malta which he could devote to fostering and deepening a relationship with his father. The fact that the applicant was also a EU citizen had no bearing on the facts of the case since this did not allow him to acquire Maltese citizenship. The relevant EU directives created a series of residence rights subject to conditions and formalities and could not be comparable to outright citizenship.

29. The Court, noting that the applicant based his application on Article 14 of the Convention, taken in conjunction with Article 8, reiterates that the notion of "family life" in Article 8 is not confined solely to marriage-based relationships and may encompass other *de facto* "family" ties. The application of this principle has been found to extend equally to the relationship between natural fathers and their children born out of wedlock. Further, the Court considers that Article 8 cannot be interpreted as only protecting "family life" which has already been established but, where the circumstances warrant it, must extend to the potential relationship which may develop between a natural father and a child born out of wedlock. Relevant factors in this regard include the nature of the relationship between the natural parents and the demonstrable interest in and commitment by the

natural father to the child both before and after the birth (see *Nylund v. Finland* (dec.), no. 27110/95, ECHR 1999-VI).

30. The Court also reiterates that the concept of "private life" is a broad term not susceptible to exhaustive definition. It covers the physical and psychological integrity of a person. It can therefore embrace multiple aspects of the person's physical and social identity (see *Dadouch v. Malta*, no. 38816/07, § 47, ECHR 2010-... (extracts)). The provisions of Article 8 do not, however, guarantee a right to acquire a particular nationality or citizenship. Nevertheless, the Court has previously stated that it cannot be ruled out that an arbitrary denial of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such a denial on the private life of the individual (see *Karassev v. Finland* (dec.), no. 31414/96, ECHR 1999-II, and *Slivenko v. Latvia* (dec.) [GC], no. 48321/99, § 77, ECHR 2002-II).

31. With regard to Article 14, the Court reiterates that it only complements the other substantive provisions of the Convention and the Protocols thereto. It has no independent existence since it has effect solely in relation to "the enjoyment of the rights and freedoms" safeguarded by those provisions (see, among many other authorities, *Sahin v. Germany* [GC], no. 30943/96, § 85, ECHR 2003-VIII). The application of Article 14 does not necessarily presuppose the violation of one of the substantive rights protected by the Convention. It is necessary but it is also sufficient for the facts of the case to fall "within the ambit" of one or more of the Articles of the Convention (see *Abdulaziz, Cabales and Balkandali v. the United Kingdom*, 28 May 1985, § 71, Series A no. 94; *Karlheinz Schmidt v. Germany*, 18 July 1994, § 22, Series A no. 291-B; and *Petrovic v. Austria*, 27 March 1998, § 22, *Reports* 1998-II).

32. The prohibition of discrimination enshrined in Article 14 extends beyond the enjoyment of the rights and freedoms which the Convention and the Protocols thereto require each State to guarantee. It applies also to those additional rights, falling within the general scope of any Convention Article, for which the State has voluntarily decided to provide. This principle is well entrenched in the Court's case-law (see *Abdulaziz, Cabales and Balkandali*, cited above, § 78; *Stec and Others v. the United Kingdom* (dec.) [GC], nos. 65731/01 and 65900/01, § 40, ECHR 2005-X; and *E.B. v. France* [GC], no. 43546/02, § 48, ECHR 2008-...).

33. The applicant argues that the denial of citizenship prevented him from spending an unlimited time in Malta, which he could have devoted to fostering a relationship with his biological father. However, the Court notes that there currently exists no family life between the applicant and his father, who has evinced no wish or intention to acknowledge his son or to build or maintain a relationship with him. The Court finds that, in these circumstances, the denial of citizenship cannot be said to have acted as an impediment to establishing family life or otherwise to have had an impact

on the applicant's right to respect for family life. However, as the Court has observed above, even in the absence of family life, the denial of citizenship may raise an issue under Article 8 because of its impact on the private life of an individual, which concept is wide enough to embrace aspects of a person's social identity. While the right to citizenship is not as such a Convention right and while its denial in the present case was not such as to give rise to a violation of Article 8, the Court considers that its impact on the applicant's social identity was such as to bring it within the general scope and ambit of that Article.

34. Maltese legislation expressly granted the right to citizenship by descent and established a procedure to that end. Consequently, the State, which has gone beyond its obligations under Article 8 in creating such a right – a possibility open to it under Article 53 of the Convention – must ensure that the right is secured without discrimination within the meaning of Article 14 (see, *E.B. v. France,* cited above, § 49).

35. The applicant's primary complaint is that, in the exercise of a right granted by domestic law, he was discriminated against on the grounds, *inter alia*, of his illegitimate status. The latter is a concept covered by Article 14 of the Convention (see *Marckx v. Belgium*, 13 June 1979, Series A no. 31, and *Inze v. Austria*, 28 October 1987, § 41, Series A no. 126).

36. Accordingly, Article 14 of the Convention, taken in conjunction with Article 8, is applicable in the present case.

37. In these circumstances the Court dismisses the preliminary objection raised by the Government.

38. The Court further notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

39. The applicant submitted that he had suffered discrimination in the enjoyment of his rights under Article 8 on the ground of his illegitimate status and/or the sex of his Maltese parent. Indeed, had the applicant's parents been married, he would have fallen within the parameters of section 5(2)(b) of the Maltese Citizenship Act; However, he fell outside that provision because of his illegitimacy. Moreover, had the applicant's mother been Maltese the applicant could have obtained citizenship; he failed to do so because it was his father who was Maltese. The applicant was in an analogous situation to any other child with a Maltese father and a foreign mother and who fulfilled all the criteria of section 5(2)(b), and like them would have become a Maltese citizen had it not been for his illegitimate status. This status transpired from his birth certificate, and irrespective of whether his father had voluntarily recognised him or whether there had been

a judicial determination to that effect, he was not eligible for citizenship owing to his status.

40. The Government submitted that since citizenship was not a right covered by the Convention differential treatment based on illegitimate status could not violate Article 14 of the Convention. As to any distinction based on sex, according to the Government this protection only applied to persons claiming discrimination when compared with other persons of a different sex. In the present case, the applicant was not ineligible for Maltese nationality on the ground of his sex, and the legal distinction based on the sex of his parent was a condition applicable irrespective of his sex. They further submitted that there was no distinction between voluntary acknowledgment of a child and judicial acknowledgment, as even if a father was recognised on the birth certificate, the child would not be eligible for citizenship on the grounds that he or she was illegitimate.

41. The Government submitted that a distinction on the basis of legitimacy was necessary since children born in wedlock had a link with their parents resulting from the marriage the parents had contracted, while this link was missing in cases of children born out of wedlock. Indeed, while the identity of the mother was always certain it would not be the case with that of the father. Thus, the social reality in such cases objectively justified treating differently illegitimate biological children of Maltese fathers born to non-Maltese mothers.

42. Lastly, they submitted that the applicant had not been in an analogous situation and that bearing in mind the State's margin of appreciation, the Court should dismiss the applicant's complaint.

43. The Court reiterates that for the purposes of Article 14 a difference in treatment is discriminatory if it has no objective and reasonable justification, that is, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised. The Contracting States enjoy a certain margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify different treatment in law; the scope of this margin will vary according to the circumstances, the subject matter and its background (see, *Inze*, cited above, § 41).

44. The Court reiterates that the Convention must be interpreted in the light of present-day conditions (see, *inter alia*, *E.B v. France.*, cited above, § 92). The question of equality between children born in and children born out of wedlock was, at the time of the *Inze* judgment (cited above) in 1987, already given importance in the member States of the Council of Europe. This was shown by the 1975 European Convention on the Legal Status of Children Born out of Wedlock, which at the time was in force in nine member States of the Council of Europe. Today, twenty-three years later, this Convention is in force in twenty-two member states. Thus, it is clear that the domestic law of the member States of the Council of Europe has

evolved and is continuing to evolve, in company with the relevant international instruments on the subject. The Court further observes that in searching for common ground among the norms of international law it has never distinguished between sources of law according to whether or not they have been signed or ratified by the respondent State (see *Demir and Baykara v. Turkey* [GC], no. 34503/97, § 78, 12 November 2008). Thus, in the case of *Marckx v. Belgium* (cited above) concerning the legal status of children born out of wedlock, the Court based its interpretation on two international conventions of 1962 and 1975 that Belgium, like other States Parties to the Convention, had not yet ratified at the time (§§ 20 and 41). Against this background, even though Malta has not ratified the 1975 European Convention, the Court reaffirms that very weighty reasons would have to be advanced before what appears to be an arbitrary difference in treatment on the ground of birth out of wedlock could be regarded as compatible with the Convention (see, *mutatis mutandis*, *Inze*, cited above, § 41).

45. The Court notes that the applicant was in an analogous situation to other children with a father of Maltese nationality and a mother of foreign nationality. The only distinguishing factor, which rendered him ineligible to acquire citizenship, was the fact that he had been born out of wedlock.

46. The argument put forward by the Government to justify this distinction was the fact that children born in wedlock had a link with their parents resulting from their parents' marriage, a link which did not exist in cases of children born out of wedlock. However, it is precisely a distinction based on such a link which Article 14 of the Convention protects against. The status of an illegitimate child derives from the fact that his or her parents were not married at the time of their child's birth. It is therefore a distinction based on such a status which the Convention prohibits, unless it is otherwise objectively justified.

47. The Court notes that the only other reason put forward by the Government is the social reality of such cases and the fact that, while a mother is always certain, a father is not. The Court cannot accept this argument. Indeed, as conceded by the Government (see paragraph 40 above), even in cases such as the present where the father was known and registered on the birth certificate, whether voluntarily or by judicial determination, the distinction arising from the provisions of the Citizenship Act persisted.

48. The Court accordingly finds that no reasonable or objective grounds have been adduced to justify such difference of treatment of the applicant as a person born out of wedlock.

49. There has accordingly been a violation of Article 14 of the Convention in conjunction with Article 8.

50. In these circumstances it is unnecessary for the Court to examine whether there has also been discrimination on the basis of the sex of the applicant's Maltese parent.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

51. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

52. The applicant did not submit any claim for just satisfaction.

FOR THESE REASONS, THE COURT

1. *Declares* the application admissible unanimously;

2. *Holds* by six votes to one that there has been a violation of Article 14 in conjunction with Article 8 of the Convention.

Done in English, and notified in writing on 11 October 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early	Nicolas Bratza
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the dissenting opinion of Judge Valenzia is annexed to this judgment.

N.B.
T.L.E.

DISSENTING OPINION OF JUDGE VALENZIA

On the separate question of admissibility (paragraph 38 of the judgment) I voted in favour because I felt that if the applicant proved that the breach of Article 14 could be pegged with Article 8, he would succeed in his complaint. However, when the merits were examined I considered that this was not the case, so I voted against the finding of a violation with regard to Article 14 in conjunction with Article 8.

In the present case there is no question that there was a breach of Article 14 because of the distinction based on status – a child born in wedlock as distinguished from a child born out of wedlock.

It is accepted that only an arbitrary refusal of citizenship may raise an issue under Article 8. In this case the arbitrariness has been established under Article 14. This article, however, cannot stand alone and has to be pegged to a Convention right.

Article 8 safeguards 'family life', but in this case there is no question of family life as this is non-existent and has been acknowledged by the parties since Mr G is excluding any type of contact with the applicant and his mother. The applicant was not, however, prevented in any way from fostering a relationship with Mr G or claiming hereditary rights. This relationship does not depend on the applicant being granted citizenship. It has also been pointed out that as a European Union citizen, the applicant has freedom of movement and other rights such as residence and work in Malta. Today there is also no obstacle to his applying for citizenship due to a change in the law. It seems that the free education that the applicant is seeking in Malta by obtaining Maltese citizenship is also available in the country where he was born.

In the obvious absence of family life under Article 8, however, the Court has said that the denial of citizenship in the present case may raise an issue under this Article because of its impact on the private life of the applicant, which concept is wide enough to embrace aspects of his social identity.

The Court, however, does not define social identity nor does it explain how citizenship defines the applicant's identity. The concept of private life is so vast that it embraces everything, even things pertaining to public law. Denial of citizenship always has an impact in a general way on any person, so this alone cannot be taken as the reason why social identity has been affected.

In this particular case the applicant produced no proof to show how this deprivation of Maltese citizenship has affected his private life and impacted on his social identity. This effect is being presumed and taken for granted by the Court. It is to be noted that the applicant was born in 1996 and his mother had already started proceedings in 1996 with the Malta High Commission. Constitutional proceedings started in Malta in 2006 when the applicant was nine years old. Nowhere in the proceedings was there any proof of or claim made as to how the applicant was affected.

Therefore the facts in this case do not warrant the Court pushing this concept too far. "The jaws of Article 8 have already been opened wide enough".[1] There are limits on the personal sphere and while certain measures by the State can affect an individual from developing his personality, it does not mean that all these measures shall be considered as an interference with his private life. This is so in the present case.

[1] Comment by Rosalind English.