

## **Report on Case No CEP-24-5148**

Issuance and renewal of Light Passenger Transport Services (Y-Plate)  
Operator's Licences

### **Abbreviations:**

CAP499	Authority for Transport in Malta Act
CAP552	Development Planning Act
CEP	Commissioner for Environment and Planning
COA	Chamber of Architects
CMP	Complainant
LPTS	Light Passenger Transport Services
PA	Planning Authority
SL499.68	Light Passenger Transport Services and Vehicle Hire Services Regulations
SL552.15	Development Planning (Use Classes) Order
TM	Transport Malta

### ***Case History***

The Ombudsman has assigned the case to the CEP, following a complaint that highlights significant legal anomalies and administrative irregularities surrounding the issuance and renewal of LPTS (Y-Plate)

Operator's Licences in Malta over the past year. The CMP contends that these issues fundamentally undermine both local and European laws, including the core principles of the European legal framework. This situation has placed garage owners – regardless of the number of vehicles they manage – in an increasingly vulnerable position, a predicament that has persisted for over two decades.

The CMP raises the following key concerns:

- 1. The absence of legal definition or regulation following the revocation of the Public Service Garage concept in 2009.**
- 2. The introduction of stricter requirements for the submission of an Architect's report.**
- 3. The mandate for annual submission of the Architect's report.**
- 4. Delays in the issuance of the original licence in December 2023.**
- 5. The failure to extend the original licence due to an ongoing dispute between the COA and TM, with the COA instructing architects to withhold the issuance of necessary reports.**

### *The Investigation*

- 1. The absence of legal definition or regulation following the revocation of the Public Service Garage concept in 2009.**

The Public Service Garage Licences Regulations 2002, established under the Malta Transport Authority Act (Chapter 332 of the Laws of Malta),

were revoked by Legal Notice 157/2009. In 2020, new Subsidiary Legislation was introduced under the Authority for Transport in Malta Act (Chapter 499 of the Laws of Malta) through the Light Passenger Transport Services and Vehicle Hire Services Regulations (SL499.68). Notably, the term ‘public service garage’ still appears in these regulations, specifically in Sub-articles 5.4.d.iv and 7.1.e.iv.

The CMP recognizes that updated regulations concerning the operation of public service garages - now referred to as LPTS garages - have been implemented. In fact, the licence associated with CMP was issued in accordance with these new regulations under SL499.68. Furthermore, the requirement for an Architect’s report, which is part of the second aspect of the complaint, also stems from these updated regulations. Therefore, the initial claim that the concept lacks legal definition or regulation is unfounded.

## **2. The introduction of stricter requirements for the submission of an Architect’s report.**

Sub-article 5(4) of SL499.68 stipulates that an operator’s licence shall remain valid unless it is revoked, suspended or surrendered, provided that the operator submits to the Authority, within one month preceding the first year from the issue of the said licence, and every subsequent year, an application for renewal which shall include, amongst others, a report signed by a warranted Architect that, in relation to each garaging facility set out in the operator’s licence shall:

- (i) include the addresses of locations and site plans of every said garaging facility;
- (ii) specify the total number of car spaces at every said garaging facility;
- (iii) certify that these spaces are sufficient to park all light passenger transport vehicles that are registered under the operator's licence; and
- (iv) in the case of an operator's licence for the registration of five or more vehicles, provide the relative development permit approving the use of the garaging facility in which the vehicles are parked as a public service garage, and provide the details of any such permit.

Under SL499.68, a 'garaging facility' is defined as any off-street premises where the parking or garaging of motor vehicles is permitted by the relevant PA permit. CMP asserts that his garage fully complies with this definition. However, the Circular issued by the COA on 4 June 2024, clarifies that Architects must ensure garages are not utilized for LPTS vehicles unless explicitly authorized by the PA. This aligns with the specific permit conditions imposed by the PA for CMP's garage, which stipulate that it is designated solely for the parking of private cars. CMP's argument that the garage adheres to regulations is thus not valid, also since SL499.68 defines a 'motor vehicle' as one that is licensed for LPTS purposes, thereby necessitating a PA permit under CAP552.

Nevertheless, the provisions outlined in SL499.68 present several ambiguities that warrant clarification:

1. The regulations stipulate the requirement for a development permit for the registration of more than five vehicles (as per Sub-articles 5.4.d.iv and 7.1.e.iv), while they do not impose the same requirement for fewer vehicles (as indicated in Sub-articles 5.4.d.iii and 7.1.e.iii). This raises a question regarding the consistency of these regulations, especially since SL552.15 does not differentiate between these scenarios, and a PA permit is mandated in both cases under CAP552.

2. There is a potential inconsistency in the role of the Architect as described in Sub-article 7.1.d. It is unclear how an Architect can provide a report for each garaging facility listed in the operator's licence when the same Article 7 applies to new applicants who do not hold an operator's licence.

3. Furthermore, the ability of an Architect to certify that the designated parking spaces are adequate for all LPTS vehicles registered under the operator's licence (as per Sub-article 7.1.e.iii) is also questionable. This concern arises from the fact that the same Article 7 applies to new applicants without an existing operator's licence, creating ambiguity regarding the Architect's capacity to make such a certification.

These points highlight the need for further clarification to ensure that the regulations are applied consistently and effectively.

On 26 August 2024, CMP was notified that his licence was set to expire and was instructed to submit *“a report issued and signed by a warranted Architect, confirming that the applicant has enough private garage parking space and, or private off-street parking space for his exclusive use where to park his vehicles while these are not in use.”* This is not

what the regulations stipulate. Sub-article 5.4.d.iii states that the report, in relation to each garaging facility, should “*certify that these spaces are sufficient to park all light passenger transport vehicles that are registered under the operator’s licence.*” Once an operator’s licence was issued and this was neither revoked, nor suspended nor surrendered, TM should have informed CMP accordingly. The stipulation in Sub-Article 7.3, which allows TM to request that any information provided by an applicant in connection with an application be included in a statutory declaration or sworn affidavit, does not pertain to renewal applications falling under Article 5 of SL499.68. Once an operator’s licence is issued, it should remain valid unless it is revoked, suspended, or surrendered. Therefore, TM should have communicated this status to CMP. Additionally, in the event of a failure to submit the Architect’s report, TM should have proceeded with the renewal of the operator’s licence as per the transitory provision under Article 78, which allows licensed operators a twelve-month period from the enactment of these regulations to comply with the requirements regarding the submission of the Architect’s report under Sub-article 5.4.d.

The CEP believes that TM should grant an additional twelve-month extension to existing licence holders from the date of this Final Opinion to comply with this regulation. This recommendation arises from the fact that the difficulties related with the requirement for the Architect’s report were only brought to light following the issuance of the relevant circular by the COA on 4 June 2024. While it is acknowledged that ignorance of the law is not a valid excuse, the lack of awareness regarding circulars issued to Architects presents a different scenario. Licence holders

typically become aware of such circulars only when their licences are up for renewal.

It is important to highlight that the CEP is not assessing the validity of the Architect's report submitted with the original application for a new operator's licence, as this matter has not been contested and falls outside the scope of this Office's responsibilities.

Therefore, while existing operators' licences should be renewed in accordance with the transitional provision outlined in Article 78 of SL499.68, even in the absence of an Architect's report, it is recommended that the regulations be amended as follows:

1. Extend the transitory period by an additional twelve months under Sub-article 78. This extension will provide existing licensed operators with adequate time to secure premises that possess a valid PA permit for the use of the garaging facility in compliance with legal requirements.
2. Specify that applications for new LPTS operator licences must include a certified true copy of the relevant PA permit associated with the garaging facility, alongside the Architect's report.
3. Clarify that for the renewal of LPTS operator licences, it is sufficient to submit a certified true copy of the Architect's report that was included with the original application, rather than requiring a new report.

The current TM regulations should indeed be fully aligned with the provisions outlined in CAP552 (PA) and CAP390 (Periti Act). If alignment is not feasible, it would be prudent to exclude specific



regulations from the TM framework altogether. The existing regulations do not adequately address this alignment particularly where it refers to the submission of an Architect's report, highlighting the necessity for TM to engage in consultations with the PA, the COA, and the operators. Such collaboration is essential to develop more appropriate and effective regulations that meet the needs of all stakeholders involved.

### **3. The mandate for annual submission of the Architect's report.**

Once the recommended amendments to the regulations are implemented, TM should engage in discussions with all stakeholders, including the PA, the COA and operators, to evaluate the necessity of requiring similar Architect's reports on an annual basis. The current regulations specifically address this matter for new applications under Sub-article 7.2, which only stipulates that police conduct reports should be up-to-date. For renewal applications, Sub-article 5.4.e indicates that a signed declaration from the operator regarding good conduct is adequate. Consequently, it can be inferred that an Architect's declaration certifying a true copy of the original document, in relation to the PA permit for the change of use, should be considered sufficient.

### **4. Delays in the issuance of the original licence in December 2023.**

Upon initiating this investigation, the CMP was made aware that the focus would be on how TM addresses the challenges posed by the COA



circular, specifically regarding the necessity of annual certification. This approach aligns with Article 14.2 of the Ombudsman Act. Consequently, this particular issue was not subject to investigation.

**5. The failure to extend the original licence due to an ongoing dispute between the COA and TM, with the COA instructing Architects to withhold the issuance of necessary reports.**

Regulation 5 specifies that a report must be issued for each garaging facility listed in the operator's licence, as previously detailed. Therefore, the COA is correct in issuing the corresponding Circular to Architects, instructing them to ensure that the garage possesses a valid public service garage PA permit. Nevertheless, TM should renew the original licence by implementing the transitory provision 78 in the regulations.

***Conclusions and Recommendations***

The complaint against Transport Malta regarding the non-renewal of a light passenger operator's licence due to the absence of an Architect's report is deemed valid.

The Commissioner for Environment and Planning recommends the following:

1. Transport Malta should proceed with the renewal of licence number LPTS3104 in accordance with Sub-articles 5 and 78 of SL499.68.
2. Transport Malta should also consider renewing all other operator licences that qualify under the provisions of Sub-article 78 of SL499.68, as it is clear that additional operators are facing similar challenges and deadlocks.
3. Transport Malta is advised to recommend to the Minister an extension of the transition period under Sub-article 78 by an additional twelve months, in light of the current impasse related to the Periti Act, which has arisen due to inconsistencies between the relevant regulations and the Development Planning Act.
4. Transport Malta should convene discussions with the Planning Authority, the Chamber of Architects, and the Operators to facilitate the necessary amendments to SL499.68 as outlined in this Final Opinion.

This Final Opinion is also being copied to the Planning Authority and the Chamber of Architects.



Perit Alan Saliba  
Commissioner for Environment and Planning  
Office of the Ombudsman

14 October 2024