

Between:

IRFAN TALLA

Applicant

– and –

MINISTER FOR JUSTICE AND EQUALITY

Respondent

**JUDGMENT of Mr Justice Max Barrett dated 5th March, 2019.**

1. The Minister's wide discretion regarding naturalisations is recognised in, e.g., *AA (Algeria) v. MJE* [2016] IEHC 416, *AMA v. MJE* [2016] IEHC 466 and *AA v. MJE* [2017] IEHC 491. Those cases show the court's role is limited to reviewing whether the Minister acted arbitrarily/capriciously/autocratically. It is clear since *Tabi v. MJELR* [2010] IEHC 109 that the Minister may consider motor offences when assessing character.

2. By letter of 20.02.2018, attaching, *inter alia*, the details set out in *Table 1* below the Minister communicated to Mr Talla, his refusal of Mr Talla's naturalisation application, stating, *inter alia*, that "*Section 15 of the Irish Nationality and Citizenship Act, 1956, as amended, provides that the Minister may, in his absolute discretion, grant the application if satisfied that the applicant is of good character. The Minister, having considered your application, is not satisfied that you are of good character and has decided not to grant a certificate of naturalisation....A copy of the submission...prepared for the Minister [including the details in Table 1]...is enclosed for your information. There is no appeals process...However...you may re-apply for...a certificate of naturalisation at any time*".

3. *Table 1* follows:

Court Date	Offence	Result
21.09.17	No Insurance (User)	Strike-Out – Poor Box Payment
	Failure to Produce Insurance Certificate.	Strike Out
26.05.2011	No Insurance (User)	Fine
	Failure to Produce Insurance Certificate	Taken into Consideration
03.03.2011	Exceed Built Up Area Speed Limit 50 km/h	Fine

3. By way of general observation (the 'General Observation'), the court notes that (a) the Minister states in his letter that he has considered Mr Talla's application, (b) there is no reason to believe this means anything other than the complete application file, including submissions made by/for Mr Talla, with (c) the material that accompanied the decision letter also being considered.

4. [1] What was the standard of good character applied? Was it set unreasonably or unlawfully high? See the General Observation. The Minister was entitled to, and did, decide properly by reference to the material before him that Mr Talla is not a person of good character. There is nothing to suggest that the Minister deviated from, e.g., the concept of good character identified in *Hussain v. Minister for Justice* [2011] IEHC 171.

5. [2] (A) Were the decisions on character reasonable/rational by reference to how the facts were rendered? (B) Can those facts be clearly linked to the finding that Mr Talla is not of good character? See the General Observation. There is nothing to indicate that the Minister departed from, e.g., *GKN v. Minister for Justice* [2014] IEHC 478 or *Zaigham v. Minister for Justice and Equality* [2017] IEHC 630. On the basis of the information referenced in the General Observation the Minister decided that Mr Talla is not a man of good character. That was a decision reached and reasoned properly.

6. [3] Did the Minister properly weigh all relevant factors or demonstrate that such factors were weighed and no irrelevant considerations were taken into account, by reference to the reasons given for the decision? See the General Observation. Having regard to same and the entirety of the evidence before it, the court concludes that the Minister took everything relevant/nothing irrelevant into account.

7. [4] (A) Was the Minister in error or acting irrationally in treating the offences at issue as if they had not been brought to the attention of the Minister during the processing of his application, when they had been, and an explanation in respect of same proffered? (B) Did Mr Talla have a legitimate expectation that his explanation of the offences at issue would be considered? Question (A) arises because of the statement in the documentation accompanying the Minister's decision that "*Information has come to light in the course of the processing of this application which the applicant could reasonably have foreseen could be taken into consideration in the decision making process*". In his affidavit evidence, Mr Talla avers, *inter alia*, as follows: "*By letter dated 15th May 2014, my solicitors received correspondence from the Minister enclosing a Garda report and which requested that I provide 'submissions/explanations' on the offences listed and to confirm the payment of fines. My solicitors wrote on 13th June 2014 and set out that they believed that I may have wrongly pleaded guilty to the offence of no insurance and that they were investigating the matter further. They again wrote on 18th August...setting out that the speeding matter was a routine matter and the reason why it was in Court is that I didn't get the notice to pay the fine.*" So patently the text in the documentation accompanying the Minister's decision is correct: there was some information that came to light, which Mr Talla could have expected would come to light, and about which queries were raised. It was not the entirety of the information but it is not suggested by the Minister that it was. As to (B), the question does not arise: the information referenced in the General Observation was considered.

8. The court does not see difficulty to present in terms of compliance with the case-law on reasoned administrative decisions to which it was referred, including e.g., *Mallak v. MJE*, [2012] 3 IR 297, *Rawson v. Minister for Defence* [2012] IESC 26, *EMI Records (Ireland) Ltd v. Data Protection Commissioner* [2013] 2 IR 669, and *Connolly v. An Bord Pleanála* [2018] IESC 31. To paraphrase, e.g.,

Clarke J., in *EMI*, 739, Mr Talla received sufficient information to enable him to assess whether the decision was lawful, to enable him to assess the chances of success in a judicial review application and adequately to make that application. There was also sufficient information to enable the court to discharge its role in this application.

9. Complaint is made that there have been cases in the past where a person presented with, *e.g.*, some history of driving without insurance, and yet was successful in a naturalisation application. That may be so. However, each naturalisation case is considered on the particular facts presenting, the court does not know all the facts of those other cases, and there was nothing to stop the Minister properly reaching, and he did properly reach, the decision arrived at in this application on the facts before him.

10. Complaint is made that because the recommendation to the Minister (in the documentation attached to the impugned decision) states that "*Given the nature of the offences, I am not satisfied that the applicant is of good character*", the process of re-application referred to in the decision letter is pointless because the nature of the offences will never change. That, with respect, is not correct. Over time the nature of the offences will change in part by their becoming increasingly historical in nature. In any future application that changed nature may or may not benefit Mr Talla. Whether it does is a matter for the Minister, whose future decision/s (if further application/s is/are made) will doubtless also be informed in part by the entirety of Mr Talla's history to the point of such future decision/s.

11. For the reasons stated above, all the reliefs sought are respectfully refused.