



Plenary sitting

B9-0470/2022

14.10.2022

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission

pursuant to Rule 132(2) of the Rules of Procedure

on the rule of law in Malta, five years after the assassination of Daphne Caruana Galizia
(2022/2866(RSP))

David Casa

on behalf of the PPE Group

Thijs Reuten, Birgit Sippel, Juan Fernando López Aguilar, Sylvie Guillaume

on behalf of the S&D Group

Sophia in 't Veld, Anna Júlia Donáth, Moritz Körner, Michal Šimečka, Ramona Strugariu, Dragoş Tudorache, Hilde Vautmans

on behalf of the Renew Group

Gwendoline Delbos-Corfield

on behalf of the Verts/ALE Group

Patryk Jaki, Adam Bielan, Ryszard Czarnecki, Eugen Jurzyca, Assita Kanko, Beata Kempa, Elżbieta Rafalska, Bogdan Rzońca, Dominik

Tarczyński, Valdemar Tomaševski, Alexandr Vondra, Witold Jan

Waszczykowski, Jadwiga Wiśniewska, Carlo Fidanza, Joachim Stanisław Brudziński, Vincenzo Sofò

on behalf of the ECR Group

Konstantinos Arvanitis

on behalf of The Left Group

B9-0470/2022

European Parliament resolution on the rule of law in Malta, five years after the assassination of Daphne Caruana Galizia (2022/2866(RSP))

The European Parliament,

- having regard to Articles 2, 4, 5, 6, 7, 9 and 10 of the Treaty on European Union (TEU),
- having regard to Article 20 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Articles 6, 7, 8, 10, 11, 12 and 47 of the Charter of Fundamental Rights of the European Union,
- having regard to its resolutions of 15 November 2017¹, 28 March 2019², 16 December 2019³ and 29 April 2021⁴ on the rule of law in Malta,
- having regard to the hearings, exchanges of views and delegation visits carried out by the Democracy, Rule of Law and Fundamental Rights Monitoring Group of the Committee on Civil Liberties, Justice and Home Affairs since 15 November 2017,
- having regard to the exchanges of letters between the Chair of the Democracy, Rule of Law and Fundamental Rights Monitoring Group and the Prime Minister of Malta,
- having regard to Resolution 2293(2019) of the Parliamentary Assembly of the Council of Europe of 26 June 2019 entitled ‘Daphne Caruana Galizia’s assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges’,
- having regard to the report on the follow-up to resolution 2293(2019) of the Parliamentary Assembly of the Council of Europe, endorsed by the Parliamentary Assembly’s Committee on Legal Affairs and Human Rights on 8 December 2020,
- having regard to Opinion No. 993/2020 of the Venice Commission of 8 October 2020 on ten Acts and bills implementing legislative proposals subject of Opinion CDL-AD(2020)006,
- having regard to the report of the Commissioner for Human Rights of the Council of Europe following her visit to Malta from 11 to 16 October 2021,
- having regard to the letter of the Commissioner for Human Rights of the Council of Europe of 23 September 2022 to the Prime Minister of Malta, and the reply of the Prime Minister of Malta of 4 October 2022,

¹ OJ C 356, 4.10.2018, p. 29.

² OJ C 108, 26.3.2021, p. 107.

³ OJ C 255, 29.6.2021, p. 22.

⁴ OJ C 506, 15.12.2021, p. 64.

- having regard to the Commission’s 2022 Rule of Law Report (COM(2022)0500),
 - having regard to the mission report of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) following the visit of its Delegation on the Rule of Law to Valletta, Malta, from 23 to 25 May 2022,
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas the Union is founded on the common values enshrined in Article 2 TEU of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities – values that are common to the EU Member States and to which candidate countries must adhere in order to join the Union as part of the Copenhagen criteria, which cannot be disregarded or reinterpreted after accession; whereas democracy, the rule of law and fundamental rights are mutually reinforcing values which, when undermined, may pose a systemic threat to the Union and the rights and freedoms of its citizens;
- B. whereas the rule of law, respect for democracy, human rights and fundamental freedoms and the values and principles enshrined in the EU Treaties and international human rights instruments are obligations incumbent on the Union and its Member States and must be complied with;
- C. whereas the Charter of Fundamental Rights of the European Union is part of EU primary law; whereas freedom of expression and freedom and pluralism of the media are enshrined in Article 11 of the Charter of Fundamental Rights and Article 10 of the European Convention on Human Rights (ECHR);
- D. whereas the independence of the judiciary is enshrined in Article 19(1) TEU, Article 47 of the Charter of Fundamental Rights and Article 6 of the ECHR, and is an essential requirement of the democratic principle of separation of powers;
- E. whereas journalists, notably but not exclusively investigative journalists, are increasingly targeted by so-called ‘strategic lawsuits against public participation’ (SLAPPs), both within and outside the EU, which are intended purely to frustrate their work, avoid public scrutiny and prevent authorities from being held to account; whereas this has a chilling effect on media freedom;
- F. whereas Member States should encourage the establishment of early warning and rapid response mechanisms to ensure that journalists and other media actors have immediate access to protective measures when they are threatened; whereas such mechanisms should be subject to meaningful civil society oversight and guarantee protection for whistle-blowers and sources who wish to remain anonymous;
- G. whereas in order to avoid impunity, Member States have an obligation to take all necessary steps to bring the perpetrators of crimes against journalists and other media actors to justice; whereas investigations and prosecutions should consider all of the different – actual and potential – roles in these crimes, such as authors, instigators, perpetrators and accomplices, and the criminal liability that arises from each of those roles;

- H. whereas the Maltese anti-corruption investigative journalist and blogger Daphne Caruana Galizia was assassinated in a car bomb attack on 16 October 2017; whereas she was the target of harassment and numerous threats in the form of threatening phone calls, letters and text messages, as well as an arson attack on her house; whereas the self-confessed hit man testified in court on 16 March 2021 that two years before Daphne Caruana Galizia was murdered there was a previous and separate plot to assassinate her using an AK-47 rifle;
- I. whereas the murder investigations led by the Maltese authorities and assisted by Europol have led to the identification, arraignment and ongoing trial of several suspects and one of the potential masterminds behind the murder, the owner of the Dubai-based company 17 Black Ltd. and former member of the Board of Directors of ElectroGas Malta Ltd., responsible for generating the majority of Malta's electricity, who was arrested on 20 November 2019 in an apparent attempt to escape Malta; whereas the United States Federal Bureau of Investigation was also involved in the investigations;
- J. whereas the United Arab Emirates (UAE) was used to conceal transactions allegedly linked to corruption that Daphne Caruana Galizia was exposing at the time of her assassination;
- K. whereas the Dubai-based company 17 Black Ltd. was listed as a company from which Panama-based companies owned by the former chief of staff to the former prime minister of Malta and by the former minister for tourism, formerly the minister for energy, were set to receive funds; whereas links between 17 Black Ltd. and numerous public projects in Malta continue to be exposed;
- L. whereas the chief of staff to the former prime minister of Malta and the former minister for tourism, formerly the minister for energy, and their families have been designated by the US Department of State due to their involvement in significant corruption and have thus been barred from entering the United States;
- M. whereas Pilatus Bank was exposed by Daphne Caruana Galizia as being the bank of choice for suspicious transactions involving Maltese and Azeri politically exposed persons; whereas Malta's police commissioner publicly declared in August 2020 that charges against those involved in criminal activity at Pilatus Bank were imminent; whereas 26 months later, charges have only been brought against one person and investigations appear to have stalled; whereas those implicated were allowed in and out of the country freely despite arrest warrants having been issued; whereas a former compliance officer at the Malta Gaming Authority was allowed to leave Malta while travelling on holiday with the former prime minister of Malta despite a European arrest warrant being in force against him, and was subsequently apprehended on arrival in Italy;
- N. whereas two partners at Mossack-Fonseca-linked firm Nexia BT, now defunct, exposed by Daphne Caruana Galizia and the Panama Papers as having designed the money laundering structures to facilitate corruption, have been charged for only some of the allegations made against them, excluding the ElectroGas scandal;
- O. whereas the liquefied natural gas security of supply agreement between ElectroGas Malta Ltd. and the Government of Malta, signed by the former minister for tourism,

who was at the time, in 2015, the minister for energy, was kept secret for years and only exposed in September 2022 by the Daphne Caruana Galizia Foundation and a media outlet; whereas the current attorney general has been criticised for facilitating the signing of this contract without any further approval from cabinet or parliament in her former role as deputy attorney general; whereas at the time of her assassination, Daphne Caruana Galizia was investigating a large cache of internal documents from ElectroGas Malta Ltd.;

- P. whereas one of the alleged accomplices and certain recordings exhibited in court proceedings have implicated the former chief of staff to the former prime minister of Malta in the planning and funding of the murder; whereas he was arrested and charged with money laundering, fraud, corruption and forgery on 20 March 2021 in a separate case, which was the subject of Daphne Caruana Galizia's work, along with several of his business associates;
- Q. whereas a public independent inquiry into the murder of Daphne Caruana Galizia was initiated in late 2019 and concluded on 29 July 2021; whereas the board of the public inquiry published a report with a set of conclusions and recommendations on strengthening the rule of law, the respect of press freedom, freedom of expression and the protection of journalists, on legal reform at constitutional level, and on legislative proposals regarding media freedom; whereas the Board also established that 'whilst there was no evidence that the State as such had any role in the assassination of Mrs Caruana Galizia, (...), the State should bear the responsibility for the assassination by creating a climate of impunity, generated from the highest levels at the core of the administration at Castille⁵ and spreading its tentacles to other entities such as regulatory institutions and the Police which led to the collapse of the rule of law';
- R. whereas the Government of Malta has proposed a number of reforms to address some of those recommendations, including draft legislation to strengthen media freedom and a proposal for an anti-SLAPP law; whereas the reforms of the Maltese justice system that started in 2020 have continued to be implemented;
- S. whereas the latest Media Pluralism Monitor rated the overall risk to media pluralism in Malta as 'medium', but rated the risk for editorial autonomy and political independence as 'high';
- T. whereas Maltese news outlet The Shift News has been faced with 40 separate legal appeals from public authorities against freedom of information requests concerning public expenditure vis-a-vis the independent media;
- U. whereas the judicial reform undertaken by Maltese authorities was mentioned in the 2021 State of the Union speech;
- V. Whereas the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval) has acknowledged Malta's significant progress in the level of compliance with the Financial Action Task Force Standards, deemed Malta to be compliant and removed Malta from the grey list after 12

⁵ The Auberge de Castille has been the office of the Prime Minister of Malta in Valletta since March 1972.

months;

- W. whereas in its mission report following the visit of the LIBE Delegation on the Rule of Law to Malta from 23 to 25 May 2022, the Democracy, Rule of Law and Fundamental Rights Monitoring Group of Parliament's LIBE Committee expressed concerns over the slow progress in the follow-up to the murder of Daphne Caruana Galizia and the implementation of the recommendations by the public inquiry, among others, while recognising that the judicial proceedings are still ongoing;
1. Pays tribute to Daphne Caruana Galizia five years after her assassination and to her essential work in exposing corruption, organised crime, tax fraud and money laundering, and in holding those involved in such illegal activities accountable; strongly condemns the criminalisation of, attacks on and killings of journalists for doing their job, including the killings of Ján Kuciak and his fiancée Martina Kušnírová on 21 February 2018, of Viktoria Marinova on 6 October 2018, of Greek journalist George Karaivaz on 9 April 2021, and of Dutch journalist Peter R. de Vries on 15 July 2021, and stresses the crucial role they play in unveiling the truth, protecting democracy and ending the culture of impunity; pays further tribute to all the journalists killed in Europe in recent years; reiterates the paramount importance of an independent media and active civil society as fundamental pillars of justice, democracy and the rule of law; notes that the murder of journalists affects not just a Member State, but the European Union as a whole; firmly believes that the protection of the democratic rule of law is a common responsibility that transcends national and party boundaries;
 2. Acknowledges the progress made in the ongoing judicial proceedings on the murder of Daphne Caruana Galizia, while deeply regretting that they have led to only one conviction so far; reiterates, therefore, its call for finalising the investigation into the core motives behind the murder and closing the criminal judicial proceedings as quickly as possible, bringing those involved in the murder, at any level, to justice; reiterates its call for the full and continuous involvement of Europol in all aspects of the murder investigation and all related investigations;
 3. Acknowledges that the current prime minister of Malta publicly apologised for the state's shortcomings that could have contributed to the murder of Daphne Caruana Galizia;
 4. Is concerned that one year after the publication of the report of the public inquiry, the process of implementation of its recommendations is deficient; notes that the Maltese Government has put forward a number of reforms, including legislative proposals in order to address some of these recommendations; notes that the Council of Europe's commissioner for human rights indicated that the Maltese authorities must ensure that legislative work launched pursuant to the public inquiry report complies with international standards and is fully open to public scrutiny and participation; calls on the Maltese Government to implement all the recommendations of the public inquiry report without further delay;
 5. Welcomes the efforts of the FIAU and stresses that it is essential that high-profile financial and economic crimes, especially corruption and money laundering, are prosecuted rigorously; is appalled, however, about the lack of progress in prosecuting

the corruption and money laundering that Daphne Caruana Galizia had been investigating at the time of her murder, which involved suspects at the highest political levels; is also alarmed by the institutional failure of law enforcement and justice in Malta and strongly urges the authorities responsible to bring to justice every individual implicated in one or more of the numerous cases currently being investigated or reported; is highly concerned about the recent revelations of repeated inaction on European Arrest Warrants against those connected with high political officials; calls on the Maltese authorities to address challenges related to the length of investigations into high-level corruption cases, including by establishing a robust track record of final judgments; stresses the importance of institutional independence for the proper functioning of the rule of law; calls on the Maltese authorities to make progress on investigations into cases of possible attempts by then public officials to conceal evidence and obstruct investigations and judicial proceedings;

6. Is alarmed by the lack of progress of the investigative and judicial proceedings against Pilatus Bank officials and the efforts by the Maltese authorities to stall proceedings; takes note of the provisional measures of the International Centre for Settlement of Investment Disputes of 14 September 2022⁶ delaying the Maltese authorities' inquiries; calls on the Maltese authorities to provide additional resources to investigate the reasons for the delay and to ensure that justice runs its course; calls on the relevant European bodies to closely monitor progress on the Pilatus Bank case; is also alarmed by the lack of progress against the two Nexia BT partners and calls on the Commission and Moneyval to monitor the case; expresses further concerns about the allegations of money laundering and corruption in relation to the ElectroGas deal and calls on the Commission to use all tools at its disposal to assess whether the applicable European law was adhered to;
7. Welcomes the additional capacities that are being made available for the investigation and prosecution of crime in general, the reformed appointment procedure for judges, and the reform of the Attorney General's office and role; calls on the Maltese parliament to reach an agreement on depoliticising the appointment of the chief justice involving the judiciary in the procedure, taking into account European standards on judicial appointments and the opinion of the Venice Commission;
8. Regrets the deterioration of the efficiency of the Maltese justice system and calls for solutions to be found to reduce the length of proceedings;
9. Notes the importance of the information that the UAE possesses concerning transactions carried out by companies linked to corruption and their significance to ongoing investigations; notes that the UAE has since been grey listed by the Financial Action Task Force ; commits to monitoring the ongoing cooperation between the UAE and Malta to ensure that the necessary information for prosecutions is properly requested and transmitted, and notes that this cooperation should have implications for the UAE's standing with anti-money laundering regulatory bodies; reiterates its call on the Commission and the Maltese authorities to use all tools at their disposal to ensure cooperation and proper legal assistance in all investigations; calls on the UAE to cooperate swiftly with the Maltese authorities in order to facilitate investigations, and

⁶ <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/21/36>

with the EU in general;

10. Welcomes the recent referrals of cases from the Maltese Government to the European Public Prosecutor's Office (EPPO); believes, however, that the overall number of cases remains relatively low in comparison to other Member States and that the Maltese system to detect, investigate, and prosecute crimes remains opaque;
11. Expresses grave concern with the reported lack of cooperation from Maltese authorities with the EPPO in ongoing cases; notes in particular allegations regarding the ongoing investigation of an EU-funded project in which the alleged mastermind of Daphne Caruana Galizia's assassination and owner of the Dubai-based company 17 Black Ltd. is implicated;
12. Expresses concern about the impunity afforded to key figures in the former prime minister's administration, including the former prime minister himself, his chief of staff, and the former minister for tourism, formerly the minister for energy;
13. Acknowledges the several proposals put forward by the Maltese Government to improve the situation of media freedom; urges the Maltese authorities to ensure that the proposed reforms meet the European and international standards on the protection of journalists, in particular as regards preventing and sanctioning threats against and harassment of journalists, publicly and online, and to swiftly implement them; urges the Maltese authorities also to introduce additional measures and other safeguards to improve the environment for critical and independent journalism in Malta, and the accountability of politicians and officials;
14. Is concerned that obstacles to media freedom and pluralism persist, for instance with regard to access to information requests to the government, as well as potentially discriminatory funding of media outlets; regrets that governmental entities have lodged a series of appeals against the 40 positive decisions made by the data protection commissioner in favour of freedom of information requests made by The Shift News and believes that the appeals could send a chilling message to media actors and citizens; calls on the Maltese Government to immediately withdraw these appeals;
15. Expresses concerns at reports indicating that while the Committee of Experts on the Media was tasked with providing advice on changes to the media sector did include some representatives of the media, the Maltese Government did not conduct a public consultation; calls on the Maltese authorities to secure a broad public consultation concerning the media sector, and in particular the restriction on the use of SLAPPs; calls on the Maltese parliament to adopt relevant legislation, including amendments to the Constitution, as a matter of priority;
16. Deplores the fact that journalists, as well as family members of Daphne Caruana Galizia, are currently still the target of SLAPPs, and reiterates its urgent call on the individuals who initiated the cases, including former government officials, to drop them;
17. Welcomes the current proposals establishing that defamation court tariffs will not be paid upon initial presentation of a reply by the defendant journalist, and the possibility for Maltese courts to deem defamation suits 'manifestly unfounded' and thus to dismiss

them; calls on the Maltese authorities to implement the Commission Recommendation and enact effective policies for the protection of journalists; welcomes the Commission proposal for a directive to combat SLAPPs (COM(2022)0177);

18. Calls on the Maltese Government to further address existing concerns related to media freedom and the independence of public media from political interference, including a framework to ensure transparency in state advertising, and the increasing use of hate speech on social media;
19. Welcomes the amendment of Malta's Protection of the Whistleblower Act in 2021, and its commitment to create a database for collecting information on whistle-blowing by the end of 2024;
20. Expresses its concern that no solution has been found for the appointment of a new Ombudsman and that no women have been appointed as commissioners for administrative investigations; calls on the Maltese authorities to create an anti-deadlock mechanism for parliamentary appointments and to adopt as a matter of priority and work towards the establishment of the Human Rights and Equality Commission in line with the Paris Principles and EU equality acquis;
21. Reiterates its call on the Maltese authorities to fully implement all outstanding recommendations by the Parliamentary Assembly of the Council of Europe, the Venice Commission, the Group of States against Corruption and Moneyval; calls on the Maltese authorities to request the Venice Commission's opinion on compliance with its recommendations;
22. Stresses that the Maltese Citizenship by Investment (CBI) programme remains a source of major concern; recalls its position that EU citizenship is not for sale and calls for an immediate ban of the programme in Malta and throughout the EU; welcomes the Commission's actions in referring the infringement case to the Court of Justice of the EU and awaits the Court's final ruling;
23. Instructs its President to forward this resolution to the Commission, the Council, the governments and parliaments of the Member States, the Council of Europe, the Government and Parliament of the United Arab Emirates and the President of the Republic of Malta.