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Rule of Law in Malta: 6 years after the assassination of Daphne Caruana Galizia and the need to protect journalists

European Parliament resolution of 19 October 2023 on the rule of law in Malta: six years after the assassination of Daphne Caruana Galizia, and the need to protect journalists (2023/2901(RSP))

(C/2024/2656)

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,
- having regard to Articles 6, 7, 8, 10, 11, 12 and 47 of the Charter of Fundamental Rights of the European Union (the 'Charter'),
- having regard to its resolutions of 15 November 2017 on the rule of law in Malta ⁽¹⁾, of 28 March 2019 on the situation of the rule of law and the fight against corruption in the EU, specifically in Malta and Slovakia ⁽²⁾, of 18 December 2019 on the rule of law in Malta following the recent revelations surrounding the murder of Daphne Caruana Galizia ⁽³⁾, of 29 April 2021 on the assassination of Daphne Caruana Galizia and the rule of law in Malta ⁽⁴⁾ and of 20 October 2022 on the rule of law in Malta, five years after the assassination of Daphne Caruana Galizia ⁽⁵⁾,
- 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 to the reply of the Prime Minister of Malta of 4 October 2022,
- having regard to the letters of the Commissioner for Human Rights of the Council of Europe to the Prime Minister and to the Speaker of the House of Representatives of Malta of 26 September 2023, and to their respective replies,

⁽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.

⁽⁵⁾ OJ C 149, 28.4.2023, p. 15.

- having regard to the Commission communication of 5 July 2023 entitled ‘2023 Rule of Law Report’ (COM(2023) 0800),
 - having regard to the mission report of the Committee on Civil Liberties, Justice and Home Affairs 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 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 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 and Article 6 of the ECHR, and is essential to end impunity for crimes against journalists and to ensure their safety and protection; 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 an independent and efficient judicial system, as well as the adoption and full implementation of measures to guarantee media freedom, freedom of expression, the right of access to information and the protection of journalists and media professionals, are key ingredients to promote and create an environment for free and independent journalism;
- 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 not intended to win a legal victory, but rather to exert financial, psychological and time pressure on journalists purely with the aim of frustrating their work, avoiding public scrutiny and preventing authorities from being held to account; whereas this has a chilling effect on media freedom; whereas the Commissioner of Human Rights of the Council of Europe has warned that ‘access to information in Malta continued to be hampered’, suggesting ‘a pattern of unwarranted secrecy within state institutions regarding information that could be of significant public interest’;
- F. whereas journalists have been targeted by spyware such as Pegasus and Predator; whereas according to the Council of Europe Commissioner for Human Rights Dunja Mijatovic, ‘highly intrusive spyware threatens the essence of human rights’ and should not be considered either necessary or proportionate in a democratic society; whereas the targeting of journalists with spyware endangers the confidentiality of their sources and, with that, the functioning and credibility of one of the most crucial pillars of our democratic societies, namely free access to information for all and the promotion of a pluralist media environment; whereas the EU institutions and the Member States should follow the recommendations from the report of the Committee of Inquiry to investigate the use of Pegasus and equivalent surveillance spyware without delay;
- G. whereas in the 2023 Rule of Law report, the Commission has underlined that there has been no further progress on access to official documents, taking into account the European Standards on the Protection of Journalists and that Maltese ‘journalists continue to face challenges in the exercise of their profession’;

- H. whereas Member States should urge 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 whistleblowers and sources who wish to remain anonymous; whereas the Protection of the Whistleblower Act, Chapter 529 of the Laws of Malta was updated to transpose Directive (EU) 2019/1937 on the protection of persons who report breaches of union law ⁽⁶⁾, back in 2021;
- I. 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;
- J. 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 the potential mastermind behind the murder; whereas one of the convicted assassins of Daphne Caruana Galizia was publicly pictured at a family baptism party in February 2023; whereas the Commissioner for Human Rights of the Council of Europe noted on 26 September 2023 that ‘no significant results have been obtained in bringing to justice all those responsible for the murder of Daphne Caruana Galizia’;
- K. 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;
- 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 there has been no progress in the judicial proceedings against Pilatus Bank officials and the former partners of the now defunct Nexia BT and the corruption related to the ElectroGas contract that Daphne Caruana Galizia was investigating at the time of her assassination and which were addressed in Parliament’s resolution of 20 October 2022;
- N. whereas the rule of law is not threatened solely by inadequate legal frameworks but also by the culture of impunity enabled by maintaining a grip on flawed institutional checks and balances that promote political interference and hamper effective enforcement, without which there can be no effective prosecutions for corruption;
- O. whereas an independent public inquiry into the murder of Daphne Caruana Galizia was initiated in late 2019 following a demand by the Parliamentary Assembly of the Council of Europe and eventually concluded its work on 29 July 2021; whereas the board of the public inquiry published its final 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 public inquiry 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 Castille and spreading its tentacles to other entities such as regulatory institutions and the Police which led to the collapse of the rule of law’; whereas the evidence presented to the public inquiry ‘revealed an extended culture of impunity not only for the highest officials within the public administration, including persons of trust, but also for the restricted circle of politicians, businessmen and criminals’;
- P. whereas Maltese investigative journalists exposed a scandal involving the buying of votes of disgruntled government supporters, enticing them using forged official documents, including fake medical certificates; whereas fixers and intermediaries then sought kickbacks and extorted the direct beneficiaries for payments; whereas the Malta Employers’ Association said that covering up such scandals under the pretext that this is the normal functioning of the political system is unacceptable and sends a dangerous message to all sectors of Maltese society; whereas governing party fixers and intermediaries continue to be protected from prosecution; whereas these incidents make it evident that serious governance issues in Malta persist and that this affects people’s lives in Malta, as well as the country’s international reputation;

⁽⁶⁾ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

- Q. whereas Maltese investigative journalists exposed another scandal involving the trading of influence of government officials to award driving licences on the basis of the recipient's political allegiance; whereas none of the high-ranking officials who passed on names for preferential treatment have been prosecuted;
- R. whereas leaked evidence indicates that data held by the governing party on the population's voting preferences was used to deny government services and systematically discriminate against citizens; whereas the Malta Data Protection Commissioner has opened an investigation into the systematic abuse of private citizens' data;
- S. whereas the Maltese Prime Minister has downplayed acts of institutionalised corruption in such a way that it continues to entrench the culture of impunity for public officials allegedly embroiled in scandals;
- T. whereas in September 2023, civil society activists were interrogated by the police after holding protests against the national broadcaster, whose chairman was implicated in the scandals but remains unprosecuted; whereas non-governmental organisations and civil society representatives have accused the national public broadcaster of censorship; whereas Malta's score on the Transparency Corruption perception index is now 51, dropping three points compared to the previous year, and according to Transparency International, one of the main reasons behind this is political interference in the public media; whereas in February 2023, the Constitutional Court ruled that the Broadcasting Authority has a constitutional duty to, *ex officio*, proactively and expeditiously ensure impartiality in broadcasting;
- U. whereas the Government of Malta has proposed a number of reforms to address some of the recommendations of the public inquiry, including draft legislation to strengthen media freedom and a proposal for an anti-SLAPP law; whereas the Commissioner for Human Rights of the Council of Europe urged Members of the Maltese Parliament to reject the Government's proposals because they 'largely ignored' input from national and international actors; whereas the Commissioner criticised the Government for omitting 'the transparency and thorough consultation that the gravity of the situation demands';
- V. whereas the most recent Media Pluralism Monitor rated the risk for editorial autonomy and political independence as 'high', and has re-evaluated the overall risk to media pluralism in Malta from 'medium' to 'high';
- W. whereas the 2023 Reporters Without Borders World Press Freedom Index revealed a worsening of the national media landscape, with Malta ranking 84th out of 180 entries, dropping six positions in comparison with 2022; whereas, according to the same report, the national legal and regulatory framework does not allow journalists to exercise their rights;
- X. whereas Maltese news outlet *The Shift News* has been SLAPPED with 40 separate legal proceedings from public authorities against freedom of information requests concerning public expenditure related to the independent media; whereas the proceedings that have been concluded have been won by *The Shift News* at great expense;
- Y. whereas, according to the Coalition Against SLAPPs in Europe, the number of SLAPP cases in Europe increased in 2022 to a record of 161 documented cases; whereas, according to the same results, Malta had the highest number of SLAPPs per capita, with 19,93 cases per 100 000 people; whereas Daphne Caruana Galizia faced 43 civil and 5 criminal lawsuits at the time of her murder;
- Z. whereas the recommendations of the Group of States against Corruption continue to be ignored, however, as noted by the Commissioner of Human Rights of the Council of Europe;
- AA. whereas efforts to protect journalism cannot succeed without an equal effort to fight corruption and money laundering, and the fight against corruption and money laundering will fail without a strong and pluralist press;

1. Pays tribute to Daphne Caruana Galizia six 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 Giorgos 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; expresses its deep dismay at the absence of any meaningful investigation into the murder of Giorgos Karaivaz, while the arrest of two suspects seems rather to be related to the election campaign; calls on the Greek authorities to make sure full justice is done; 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. Is deeply concerned that limited progress has been made in the ongoing judicial proceedings on the murder of Daphne Caruana Galizia since Parliament's resolution of 20 October 2022 on the occasion of the fifth anniversary of the assassination, that to date there have only been three low-level convictions and that the mastermind behind the assassination has not been convicted yet; calls on Maltese authorities to expedite the judicial proceedings to ensure that justice is served; reiterates, therefore, its call for the investigation into the core motives behind the murder to be finalised and the criminal judicial proceedings to be concluded without further delay, bringing all 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. Calls for the EU institutions and the Member States to ensure the safety and protection of journalists and media professionals; calls, further, for the EU institutions and the Member States to comply with Parliament's recommendations on the protection of journalists without delay;

4. Reiterates its concerns and recommendations expressed in its previous resolutions on Malta;

5. Is appalled by the Prime Minister's statement of 3 October 2023 downplaying acts of institutionalised corruption; considers that such statements continue to entrench the culture of impunity for public officials allegedly embroiled in scandals;

6. Is concerned that two years after the publication of the public inquiry report, the process to implement its recommendations is still highly 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 expressed concern that these deficient reforms proposed have been tabled despite ignoring input from international and national organisations; calls on the Maltese Government, therefore, to implement all the recommendations of the public inquiry report, including those on the rule of law and organised crime without further delay;

7. Calls for an end to the culture of impunity; calls, therefore, for thorough, swift and independent investigations and prosecutions of all public officials allegedly embroiled in corruption, extortion and trading in influence as exposed by investigative journalists in Malta, including in the vote-buying scheme and driving licence racket; underlines that journalists will continue to be at risk as long as there is continued impunity for corruption;

8. Calls on the European Data Protection Supervisor to monitor the ongoing investigation in Malta, which was publicly announced on 9 October 2023 and will look into the abusive use of private data of Maltese citizens, which could have been used for discrimination on the grounds of political affiliation;

9. Stresses that it is critical for high-profile financial and economic crimes, especially corruption and money laundering, to be prosecuted rigorously; is appalled, however, about the persistent lack of progress in prosecuting the corruption and money laundering scandals 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; calls on the Maltese authorities to address the challenges related to the length of investigations into high-level corruption cases, including by establishing a robust track record of final judgments; points out that these protracted investigations continue to hamper progress on the rule of law; 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;

10. Reiterates its alarm at the slow progress of the investigative and judicial proceedings against Pilatus Bank officials and at the efforts by the Maltese authorities to suspend the proceedings following the apparent adoption of provisional measures by the International Centre for Settlement of Investment Disputes; requests clarification on the provisional measures of the International Centre for Settlement of Investment Disputes of 14 September 2022 given that a judge implied that the government had misled the court about stalling the proceedings; reiterates its call on relevant international and European bodies to continue monitoring progress on cases of alleged money laundering and corruption;

11. Calls for additional capacity to be made available for the investigation and prosecution of crime; regrets that the Maltese Government pushed through an anti-deadlock mechanism for the appointment of the Standards Commissioner with a simple majority, in contradiction to the opinion of the Venice Commission; regrets that polarisation is an impediment to consensus decision-making in Malta; notes that the increase in the number of magistrates may have facilitated the reduction of the required time for court proceedings from 550 to 529 days, though reducing the length of court proceedings was only one of the public inquiry recommendations; regrets the deficiencies of the Maltese justice system and calls for solutions to be found to reduce the length of court proceedings;

12. Calls on the Venice Commission to draw up an opinion on strengthening the Maltese national legal framework in order to effectively and forcefully punish corruption, including high-level corruption and abuses of power;

13. Calls on the Commission to take seriously the culture of impunity in Malta and push for a prompt return to respect for democracy and the rule of law in Malta; calls on the Commission to use all the relevant tools at its disposal to ensure that the law is applied equally for all;

14. Expresses concern about the impunity afforded to the former prime minister, his chief of staff and the former minister for tourism, also formerly the minister for energy;

15. Underlines that police action against activists constitutes intimidation that has a chilling effect on public participation and contributes to the silencing of civil society, especially in the context of ongoing impunity for crimes; calls for legal, administrative and policy-related reforms that meet international standards in order to fully address the systemic problems identified in the public inquiry;

16. Calls on the Maltese Government to desist from its negative rhetoric targeting journalists and to cease fostering a climate which is hostile to journalists and media professionals, in line with the same appeals made by the Council of Europe's Human Rights Commissioner; 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; condemns the pattern of unwarranted secrecy within state institutions regarding information that could be of significant public interest; reiterates its call on the Maltese Government to withdraw its appeals against a series of freedom of information requests filed by *The Shift News*;

17. Regrets that the proposals put forward by the Maltese Government do not improve the media freedom situation; urges the Maltese authorities to ensure that the proposed reforms meet 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 to also adopt additional measures and other safeguards to improve the environment for critical and independent journalism in Malta and the accountability of politicians and officials;

18. Expresses concern at reports indicating that while the Committee of Experts on the Media was tasked with providing advice on changes to the media sector and did include some representatives of the media, the Maltese Government did not conduct a meaningful public consultation; finds it troubling that the Maltese authorities ignored calls to conduct a broad public consultation concerning the media sector, and, in particular, the restriction on the use of SLAPPs; supports the calls by the Council of Europe's Human Rights Commissioner on the Maltese Parliament not to adopt the deficient legislation proposed, including amendments to the constitution, until a transparent and thorough consultation on the draft laws has been conducted, which should be treated as a matter of priority; underlines that any moves to improve the draft legislation must be grounded in the recommendations set out in the public inquiry report and that such changes must at the very least meet international standards on the protection and safety of journalists and freedom of the media in order to ensure quality media laws; reminds the Maltese Government of its responsibility to hold wide, inclusive and structured public consultations on legal reforms;

19. Deplores the fact that journalists, as well as family members of Daphne Caruana Galizia, are currently still the target of SLAPPs and reiterates its strong and urgent call on the individuals who initiated the cases while serving as public officials, including the former prime minister and former government officials, to drop them;

20. Reiterates that Maltese courts have the possibility to deem defamation suits 'manifestly unfounded' and thus to dismiss them; reiterates its call on the Maltese authorities to implement Commission Recommendation (EU) 2021/1534 of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union (C(2021)6650) and enact effective policies for the protection of journalists; recalls that such a directive could only address SLAPP cases with a cross-border dimension; calls on the Maltese authorities to also address domestic cases through effective anti-SLAPP legislation, in line with Council of Europe observations and recommendations; calls for the EU institutions to reach a swift agreement on an ambitious anti-SLAPP directive and calls on the Maltese authorities to fully implement the recommendation accompanying the proposal for a directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation") (COM(2022)0177); calls on the Commission to explore the possibility of further legislation to cover all SLAPP cases;

21. Calls on the Maltese Government to further address existing concerns related to media freedom and the independence of the public media from political interference, including a framework to ensure transparency in state advertising, and the increasing use of hate speech on social media; recalls that the European media freedom act should contribute to ensuring the freedom, plurality and independence of media across the EU, including the transparency of media ownership and measures to prevent media concentration from affecting media pluralism; calls for the EU institutions to swiftly reach an agreement on an ambitious European media freedom act;

22. Calls on the Maltese Government to finally enshrine the right to safe and legal abortion in national law, which has previously been announced by the government, but which there has been no legislative process to adopt, while, on the contrary, a restrictive abortion law has been passed;

23. Reminds the Maltese Government of its commitment to creating a database for collecting information on whistleblowing by the end of 2024, and that the recommendations for actions to improve the protection of whistleblowers have not been implemented, according to the 2023 Rule of Law Report;

24. Urges the Government to create, as a matter of priority, the position of Human Rights and Equality Commissioner in line with the Paris Principles and EU equality *acquis*;

25. 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 the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism – Moneyval;
26. Stresses that the Maltese Citizenship by Investment 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; awaits the final ruling of the Court of Justice of the European Union on this matter;
27. Instructs its President to forward this resolution to the Commission, the Council, the European Data Protection Supervisor, the governments and parliaments of the Member States, the Council of Europe, the Financial Action Task Force, the Government and Parliament of the United Arab Emirates and the President of the Republic of Malta.
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